

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-0300-MWD-E **TCEQ ID:** RN102806866 **CASE NO.:** 32845**RESPONDENT NAME:** Memorial Point Utility District

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Memorial Point Wastewater Plant, two miles south of the intersection of Farm-to-Market Roads 2457 and 3277 on the east side of Lake Livingston, Polk County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Robert C. Keaton, President, Memorial Point Utility District, P.O. Box 1193, Livingston, Texas 77351 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 22, 2007</p> <p>Date of NOV/NOE Relating to this Case: February 16, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with permit effluent limits [Permit No. WQ0011147001, Effluent Limitations and Monitoring Requirements, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$3,340</p> <p>Total Deferred: \$668 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,672</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to, within 30 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of Permit No. WQ0011147001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Attachment A
Docket Number: 2007-0300-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Memorial Point Utility District

Payable Penalty Amount: Two Thousand Six Hundred Seventy-Two Dollars (\$2,672)

SEP Amount: Two Thousand Six Hundred Seventy-Two Dollars (\$2,672)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up

Location of SEP: Polk 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 shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

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:

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.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

DATES	Assigned	26-Feb-2007	Screening	1-Mar-2007	EPA Due	
	PCW	5-Mar-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Memorial Point Utility District		
Reg. Ent. Ref. No.	RN102806866		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32845	No. of Violations	1
Docket No.	2007-0300-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Harvey Wilson
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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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	67% Enhancement	Subtotals 2, 3, & 7	\$1,340
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Notes: A 67% enhancement is recommended based on 12 self-reported NOV's, 1 NOV for the same or a similar violation, and 1 NOV for a non-similar violation.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$150	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$1,500	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,340
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount \$3,340

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,340
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DEFERRAL	20% Reduction	Adjustment	-\$668
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,672
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Screening Date 1-Mar-2007

Docket No. 2007-0300-MWD-E

PCW

Respondent Memorial Point Utility District

Policy Revision 2 (September 2002)

Case ID No. 32845

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102806866

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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)	13	65%
	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 judgments 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) 67%

>> 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

A 67% enhancement is recommended based on 12 self-reported NOVs, 1 NOV for the same or a similar violation, and 1 NOV for a non-similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 67%

Screening Date 1-Mar-2007

Docket No. 2007-0300-MWD-E

PCW

Respondent Memorial Point Utility District

Policy Revision 2 (September 2002)

Case ID No. 32845

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102806866

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) Permit No. WQ0011147001, Effluent Limitations and Monitoring Requirements, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits. Specifically, the total suspended solids daily average (mg/L) at Outfall 001A for the monitoring periods ending November 30, 2005, January 31, 2006, and March 31, 2006, and the total chlorine residual for the monitoring period ending December 31, 2005 exceeded the permitted limits (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 123

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

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$150

Violation Final Penalty Total \$3,340

This violation Final Assessed Penalty (adjusted for limits) \$3,340

Economic Benefit Worksheet

Respondent: Memorial Point Utility District
Case ID No.: 32845
Reg. Ent. Reference No.: RN102806866
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$1,500	1-Nov-2005	1-Nov-2007	2.0	\$150	n/a	\$150

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required is the day the noncompliance started. The Final Date is the expected compliance date.

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

\$1,500

TOTAL

\$150

**Memorial Point Utility District
Docket No. 2007-0300-MWD-E**

Effluent Violation Table

Month/Year	Total Suspended Solids Daily Average Max. 15 mg/L	Total Chlorine Residual Daily Average Max. 4.0 mg/L
November 2005	21.7	C
December 2005	C	8.0
January 2006	21.7	C
March 2006	15.4	C

C = compliant

mg/L = milligrams per Liter

Max. = maximum

Compliance History

Customer/Respondent/Owner-Operator:	CN600627640	Memorial Point Utility District	Classification: AVERAGE	Rating: 1.27
Regulated Entity:	RN102806866	MEMORIAL POINT UD	Classification: AVERAGE	Site Rating: 1.27
ID Number(s):	WASTEWATER	PERMIT		WQ0011147001
	WASTEWATER	PERMIT		TPDES0022845
	WASTEWATER	PERMIT		TX0022845
	WASTEWATER LICENSING	LICENSE		WQ0011147001
Location:	2 miles south of the intersection of Farm-to-Market Roads 2457 and 3277 on the east side of Lake Livingston, Polk County, Texas		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	February 28, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 28, 2002 to February 28, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Harvey Wilson</u>	Phone:	<u>239-0321</u>	

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? | <u>Memorial Point Utility District</u> |
| 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	03/20/2002	(166403)
2	04/17/2002	(166408)
3	05/23/2002	(166412)
4	06/13/2002	(166415)
5	07/19/2002	(166418)
6	08/19/2002	(166421)
7	09/20/2002	(166424)
8	10/23/2002	(166427)
9	11/21/2002	(166430)
10	12/18/2002	(166433)
11	01/16/2003	(166437)
12	02/18/2003	(298782)
13	03/20/2003	(166404)
14	04/11/2003	(166409)

15 05/19/2003 (298786)

16 07/14/2003 (298787)

17 08/21/2003 (298788)

18 09/18/2003 (298789)

19 10/20/2003 (298790)

20 11/18/2003 (298791)

21 12/15/2003 (298792)

22 01/16/2004 (298793)

23 02/17/2004 (298783)

24 03/24/2004 (298784)

25 04/02/2004 (262335)

26 04/19/2004 (298785)

27 05/17/2004 (353457)

28 06/15/2004 (353458)

29 09/03/2004 (353460)

30 09/07/2004 (353459)

31 09/21/2004 (353461)

32 10/27/2004 (339168)

33 11/04/2004 (382633)

34 12/06/2004 (382634)

35 12/20/2004 (382635)

36 01/21/2005 (382636)

37 02/10/2005 (382631)

38 03/16/2005 (382632)

39 04/11/2005 (420439)

40 04/26/2005 (420442)

41 05/09/2005 (420440)

42 06/03/2005 (420441)

43 07/11/2005 (441499)

44 09/16/2005 (441500)

45 10/10/2005 (469756)

46 12/07/2005 (469757)

47 12/15/2005 (469758)

48 01/09/2006 (469760)

49 01/09/2006 (437571)

50 02/10/2006 (469754)

51 03/13/2006 (469755)

52 04/10/2006 (499046)

53 05/08/2006 (499047)

54 06/14/2006 (499048)

55 07/07/2006 (521094)

56 08/07/2006 (521096)

57 08/11/2006 (521095)

58 01/22/2007 (534695)

59 02/20/2007 (537545)

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

Date: 02/29/2004 (298784)

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: 03/31/2004 (298785)

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: 04/02/2004 (262335)

Self Report? NO

Classification Moderate

Rqmt Prov: PERMIT TPDES Permit no. 11147-001

Description: Failure by Memorial Point UD to operate and maintain all systems of collection,

treatment, and disposal.

Self Report?	NO	Classification	Moderate
Rqmt Prov:	PERMIT TPDES Permit no. 11147-001		
Description:	Failure by Memorial Point UD to properly operate and maintain all systems of collection, treatment, and disposal.		
Self Report?	NO	Classification	Moderate
Rqmt Prov:	PERMIT TPDES Permit no. 11147-001		
Description:	Failure by Memorial Point UD properly operate and maintain all systems of collection, treatment, and disposal.		
Self Report?	NO	Classification	Moderate
Rqmt Prov:	PERMIT TPDES Permit no. 11147-001		
Description:	Failure by Memorial Point UD to properly operate and maintain all systems of collection, treatment, and disposal.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT TPDES Permit no. 11147-001		
Description:	Failure by Memorial Point UD to comply with test procedures specified in 30 TAC 319.11 - 319.12.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT TPDES Permit no. 11147-001		
Description:	Failure by Memorial Point UD to maintain complete records of process control records for a period of three years.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT TPDES Permit no. 11147-001		
Description:	Failure by Memorial Point UD to comply with test procedures specified in 30 TAC 319.11 - 319.12.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT TPDES Permit no. 11147-001		
Description:	Failure by Memorial Point UD to comply with test procedures specified in 30 TAC 319.11 - 319.12.		
Date:	08/31/2004 (353461)		
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:	11/30/2004 (382635)		
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:	12/31/2004 (382636)		
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:	02/28/2005 (382632)		
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:	03/31/2005 (420439)		
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:	04/30/2005 (420440)		
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:	11/30/2005 (469758)		

Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter		
Date:	12/31/2005 (469760)		
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:	01/10/2006 (437571)		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT OpR 1		
Description:	Failure by the permittee to have the backflow prevention device tested annually.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT OpR 1		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT OpR 1		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT OpR 1		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT OpR 1		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT OpR 1		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT FEL&MR 2		
Description:	Failure by the permittee to discharge effluent that is compliant with permitted limitations.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT M&RR 5		
Description:	Failure by the permittee to calibrate the flow meter annually or as often as necessary to ensure accuracy.		
Self Report?	NO	Classification:	Moderate
Rqmt Prov:	PERMIT FEL&MR 1		
Description:	Failure by the permittee to comply with the permitted flow limits.		
Self Report?	NO	Classification:	Moderate
Rqmt Prov:	PERMIT FEL&MR 1		
Description:	Failure by the permittee to discharge effluent that is compliant with permitted limitations.		
Self Report?	NO	Classification:	Moderate
Rqmt Prov:	PERMIT M&RR 7c		
Description:	Failure by the permittee to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT M&RR 2		
Description:	Failure by the permittee to calibrate the dissolved oxygen (DO) meter.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT M&RR 2		
Description:	Failure by the permittee to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.		
Self Report?	NO	Classification:	Minor

Rqmt Prov: PERMIT M&RR 2
Description: Failure by the permittee to record the results of the colorimeter accuracy check using the secondary standards.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT SP II, No. F
Description: Failure by the permittee to submit an annual sludge report (ASR) to the TCEQ Region 10 office by September 1 of each year with all of the required attachments.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT SP III C
Description: Failure by the permittee to give prior notice to the Executive Director of the Wastewater Permitting Section of any planned change in the sewage sludge disposal practice.

Date: 01/31/2006 (469754)

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: 03/31/2006 (499046)

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
MEMORIAL POINT UTILITY
DISTRICT
RN102806866

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0300-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 Memorial Point Utility District ("the District") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the District appear before the Commission and together stipulate that:

1. The District owns and operates a wastewater treatment facility located two miles south of the intersection of Farm-to-Market Roads 2457 and 3277 on the east side of Lake Livingston in Polk County, Texas (the "Facility").
2. The District has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the District agree that the Commission has jurisdiction to enter this Agreed Order, and that the District is subject to the Commission's jurisdiction.
4. The District received notice of the violations alleged in Section II ("Allegations") on or about February 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the District of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Three Hundred Forty Dollars (\$3,340) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six Hundred Sixty-Eight Dollars (\$668) is deferred contingent upon the

District's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the District fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the District to pay all or part of the deferred penalty. Two Thousand Six Hundred Seventy-Two Dollars (\$2,672) of the penalty shall be conditionally offset by the District's completion of a Supplemental Environmental Project.

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 the District have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the District has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the District is alleged to have failed to comply with permit effluent limits, in violation of Permit No. WQ0011147001, Effluent Limitations and Monitoring Requirements, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on January 22, 2007, as indicated in the table below.

Effluent Violation Table

Month/Year	Total Suspended Solids daily average Max. 15 mg/L	Total Chlorine Residual daily average Max. 4.0 mg/L
November 2005	21.7	C
December 2005	C	8.0
January 2006	21.7	C
March 2006	15.4	C

C = compliant

mg/L = milligrams per Liter

Max. = maximum

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the District pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the District'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: Memorial Point Utility District, Docket No. 2007-0300-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. The District 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, Two Thousand Six Hundred Seventy-Two Dollars (\$2,672) of the assessed administrative penalty shall be offset with the condition that the District implement the SEP defined in Attachment A, incorporated herein by reference. The District'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. It is further ordered that the District shall within 30 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of Permit No. WQ0011147001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 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:

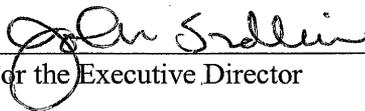
Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the District. The District 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.
5. If the District fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the District's failure to comply is not a violation of this Agreed Order. The District shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The District shall notify the Executive Director within seven days after the District 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 Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the District shall be made in writing to the Executive Director. Extensions are not effective until the District receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the District 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the District, or three days after the date on which the Commission mails notice of the Order to the District, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



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.



Signature

9 JULY 07
Date

ROBERT C. KEATON
Name (Printed or typed)
Authorized Representative of
Memorial Point Utility District

PRESIDENT
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.

Handwritten text, possibly a signature or initials.

Handwritten text, possibly a signature or initials.

Attachment A
Docket Number: 2007-0300-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Memorial Point Utility District
Payable Penalty Amount: Two Thousand Six Hundred Seventy-Two Dollars (\$2,672)
SEP Amount: Two Thousand Six Hundred Seventy-Two Dollars (\$2,672)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP: Polk 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 shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

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:

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.

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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.

