

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0253-MWD-E **TCEQ ID:** RN102075702 **CASE NO.:** 32723
RESPONDENT NAME: Zavala County

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: Chula Vista Wastewater Treatment Facility, approximately 4000 feet south of the intersection of Farm-to-Market Road 1433 and Farm-to-Market Road 65 on the south side of Crystal City, Zavala County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 1, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable Joe Luna, County Judge, Zavala County, P.O. Box 308, Crystal City, Texas 78839 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 23, 2007</p> <p>Date of NOE Relating to this Case: January 31, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. Two violations were documented.</p> <p>WATER</p> <p>1) Failed to comply with the daily average ammonia-nitrogen ("NH₃-N") permit effluent limit [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0014006001, Effluent Limitations and Monitoring Requirements No.1]</p> <p>2) Failed to report the daily average ammonia-nitrogen loading value on the Discharge Monitoring Report ("DMR") for March 2006 [TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014006001, Monitoring and Reporting Requirements No.1]</p>	<p>Total Assessed: \$1,265</p> <p>Total Deferred: \$253 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$506 (the remaining \$506 to be paid in one payment within 30 days after the effective date of the Agreed Order)</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By April 30, 2006, repaired the clarifier motor and the relay switch at the panel box in order to resolve the ammonia-nitrogen noncompliances; and</p> <p>b. By February 12, 2007, submitted a revised March DMR which included the missing ammonia-nitrogen daily average loading values.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	5-Feb-2007	Screening	21-Feb-2007	EPA Due	
	PCW	21-Feb-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Zavala County
Reg. Ent. Ref. No.	RN102075702
Facility/Site Region	16-Laredo
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32723	No. of Violations	2	
Docket No.	2007-0253-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee Hupp	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$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 **Subtotals 2, 3, & 7**

Notes: Respondent self-reported five effluent violations, resulting in an upward adjustment.

Culpability **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **Subtotal 5**

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

Notes: The Respondent achieved compliance by submitting the missing data on February 12, 2007 and by achieving compliance with effluent limitations by April 30, 2006.

0% Enhancement* **Subtotal 6**
 *Capped at the Total EB \$ Amount

Total EB Amounts	\$5
Approx. Cost of Compliance	\$250

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 **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 21-Feb-2007

Docket No. 2007-0253-MWD-E

PCW

Respondent Zavala County

Policy Revision 2 (September 2002)

Case ID No. 32723

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102075702

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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)	5	25%
	Other written NOVs:	0	0%
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%
Please Enter Yes or No			
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) 25%

>> 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

Respondent self-reported five effluent violations, resulting in an upward adjustment.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 21-Feb-2007

Docket No. 2007-0253-MWD-E

PCW

Respondent Zavala County

Policy Revision 2 (September 2002)

Case ID No. 32723

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102075702

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0014006001, Effluent Limitations and Monitoring Requirements No.1

Violation Description Failed to comply with the daily average ammonia-nitrogen ("NH3-N") effluent limit of 2.0 milligrams per liter ("mg/L"), reporting 5.5 mg/L and 3.4 mg/L for January and March 2006. Also exceeded the NH3-N single grab limit of 15 mg/L in January 2006.

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

A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, 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 1 Number of violation days 62

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

Economic Benefit Worksheet

Respondent Zavala County
Case ID No. 32723
Reg. Ent. Reference No. RN102075702
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
<small>No commas or \$</small>							

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)	\$200	31-Jan-2006	30-Apr-2006	0.2	\$2	n/a	\$2

Notes for DELAYED costs

Cost is estimate for the repair of the clarifier motor and the relay switch at the panel box to prevent continuing ammonia noncompliances. Date required is the first documented excursion and final date is the date compliance was achieved with effluent limitations.

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

\$200

TOTAL

\$2

Screening Date 21-Feb-2007

Docket No. 2007-0253-MWD-E

PCW

Respondent Zavala County

Policy Revision 2 (September 2002)

Case ID No. 32723

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102075702

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014006001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to report daily average ammonia-nitrogen loading value on the Discharge Monitoring Report for March 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

About six percent (6%) of the requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

318 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended for the incomplete March 2006 monthly report.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$115

This violation Final Assessed Penalty (adjusted for limits) \$115

Economic Benefit Worksheet

Respondent Zavala County
Case ID No. 32723
Reg. Ent. Reference No. RN102075702
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	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)	\$50	31-Mar-2006	12-Feb-2007	0.9	\$2	n/a	\$2

Notes for DELAYED costs

Cost is estimate for the administrative costs associated with recording and reporting monthly data. Date required is when the data was to be recorded and final date is when the data was received.

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

\$50

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator:	CN600627194	Zavala County	Classification: AVERAGE	Rating: 1.89
Regulated Entity:	RN102075702	CHULA VISTA WASTEWATER TREATMENT FACILITY	Classification: AVERAGE	Site Rating: 0.42
ID Number(s):	WASTEWATER	PERMIT		WQ0014006001
	WASTEWATER	PERMIT		TX0117986
	WASTEWATER	PERMIT		WQ0014006001
	WASTEWATER	EPA ID		TX0117986
Location:	approx. 4000 ft. s. of the intersec. of FM 1433 and FM 65 on the s. side of Crystal City in Zavala Co.		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	February 20, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 20, 2002 to February 20, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Merrilee Hupp</u>	Phone:	<u>512-239-4490</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>N/A</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 | 04/22/2003 | (232235) |
| 2 | 05/16/2003 | (326512) |
| 3 | 06/16/2003 | (326513) |
| 4 | 07/16/2003 | (326515) |
| 5 | 08/11/2003 | (326516) |
| 6 | 09/12/2003 | (326517) |
| 7 | 10/16/2003 | (326518) |
| 8 | 11/19/2003 | (326519) |
| 9 | 12/12/2003 | (326520) |
| 10 | 01/15/2004 | (326521) |
| 11 | 02/11/2004 | (326509) |
| 12 | 03/16/2004 | (326510) |
| 13 | 04/15/2004 | (326511) |
| 14 | 05/21/2004 | (427304) |
| 15 | 06/14/2004 | (326514) |
| 16 | 07/15/2004 | (427307) |
| 17 | 08/18/2004 | (427308) |
| 18 | 09/16/2004 | (427309) |
| 19 | 10/19/2004 | (427310) |
| 20 | 11/15/2004 | (338235) |
| 21 | 11/16/2004 | (427311) |
| 22 | 12/15/2004 | (427312) |

23 01/20/2005 (427313)
 24 02/18/2005 (427301)
 25 03/15/2005 (427302)
 26 04/18/2005 (427303)
 27 05/18/2005 (427305)
 28 06/17/2005 (427306)
 29 07/20/2005 (447401)
 30 08/30/2005 (447402)
 31 09/14/2005 (447403)
 32 10/17/2005 (492135)
 33 11/17/2005 (492136)
 34 12/19/2005 (492137)
 35 02/01/2006 (492138)
 36 02/21/2006 (492133)
 37 03/20/2006 (492134)
 38 04/14/2006 (506113)
 39 05/22/2006 (506114)
 40 06/19/2006 (506115)
 41 07/21/2006 (528345)
 42 08/15/2006 (528346)
 43 09/20/2006 (528347)
 44 01/26/2007 (535866)
 45 01/31/2007 (537693)

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

Date 03/31/2003 (232235)
 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 04/30/2003 (326512)
 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 02/29/2004 (326510)
 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 01/31/2006 (492133)
 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 (506113)
 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
ZAVALA COUNTY
RN102075702

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0253-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 Zavala County ("the County") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the County appear before the Commission and together stipulate that:

1. The County owns and operates a wastewater treatment facility located approximately 4000 feet south of the intersection of Farm-to-Market Road 1433 and Farm-to-Market Road 65 on the south side of Crystal City, Zavala County, Texas (the "Facility").
2. The County has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the County agree that the Commission has jurisdiction to enter this Agreed Order, and that the County is subject to the Commission's jurisdiction.
4. The County received notice of the violations alleged in Section II ("Allegations") on or about February 5, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the County of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Two Hundred Sixty-Five Dollars (\$1,265) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The County has paid Five Hundred and Six Dollars (\$506) of the administrative

penalty and Two Hundred Fifty-Three Dollars (\$253) is deferred contingent upon the County's timely and satisfactory compliance with all the terms of this Agreed Order. If the County fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the County to pay all or part of the deferred penalty.

The remaining amount of Five Hundred and Six Dollars (\$506) of the administrative penalty shall be paid within 30 days after the effective date of this Agreed Order. If the County fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the County to meet the payment schedule of this Agreed Order constitutes the failure by the County to timely and satisfactorily comply with all the terms of this Agreed Order.

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 County 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 the County has implemented the following corrective measures at the Facility:
 - a. By April 30, 2006, repaired the clarifier motor and the relay switch at the panel box in order to resolve the ammonia-nitrogen noncompliances; and
 - b. By February 12, 2007, submitted a revised March 2006 Discharge Monitoring Report ("DMR") which included the missing ammonia-nitrogen daily average loading values.
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 the County 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, the County is alleged to have:

1. Failed to comply with the daily average ammonia-nitrogen (" $\text{NH}_3\text{-N}$ ") permit effluent limit, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES

Permit No. WQ0014006001, Effluent Limitations and Monitoring Requirements No.1, as documented during a record review conducted on January 23, 2007. Specifically, the County self-reported daily average NH₃-N concentrations of 5.5 milligrams per liter ("mg/L") and 3.4 mg/L for January and March 2006, compared to the permit limit of 2.0 mg/L, and also self-reported an NH₃-N single grab of 17.3 mg/L for January 2006 compared to the permit limit of 15 mg/L.

2. Failed to report the daily average ammonia-nitrogen loading value on the DMR for March 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014006001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on January 23, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the County pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the County'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: Zavala County, Docket No. 2007-0253-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 provisions of this Agreed Order shall apply to and be binding upon the County. The County 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against the County 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.
4. If the County 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 County's failure to comply is not a violation of this Agreed Order. The County shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The County shall notify the Executive Director within seven days after the County

become 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 the County shall be made in writing to the Executive Director. Extensions are not effective until the County receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director
6. 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the County, or three days after the date on which the Commission mails notice of the Order to the County, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Zavala County
DOCKET NO. 2007-0253-M.V.D.-B
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdin
For the Executive Director

9/7/07
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.

Joe Lora
Signature

04-26-07
Date

Joe Lora
Name (Printed or typed)
Authorized Representative of
Zavala County

County Judge
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.

