

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0662-MWD-E **TCEQ ID:** RN101920312 **CASE NO.:** 33305

RESPONDENT NAME: Brookshire Municipal Water 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: Brookshire MWD, located immediately south of the intersection of Highway 10 and approximately 500 feet west of Brookshire Creek, Waller County</p> <p>TYPE OF OPERATION: Wastewater treatment</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 September 10, 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: Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Robin Willis, President, Brookshire Municipal Water District, P.O. Box 1850, Brookshire, Texas 77423 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: March 30, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 19, 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 permitted effluent limitations [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010001001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$2,410</p> <p>Total Deferred: \$482 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,928</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>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. In October 2006, adjustments to flow and the air in the aeration basins were completed and daily monitoring of ammonia nitrogen levels at the influent point, each aeration basin, and the effluent discharge point was implemented;</p> <p>b. In November 2006, increased removal frequency of the sludge blanket in the bottom of the chlorine contact chamber; and</p> <p>c. On December 31, 2006, came into compliance with permitted effluent limits.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): TX0025046, WQ0010001001

Attachment A

Docket Number: 2007-0662-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Brookshire Municipal Water District

Payable Penalty Amount: One Thousand Nine Hundred Twenty-Eight Dollars (\$1,928)

SEP Amount: One Thousand Nine Hundred Twenty-Eight Dollars (\$1,928)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

Location of SEP: Waller 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 provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

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.

Brookshire Municipal Water District
Agreed Order – Attachment A

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 March 19, 2007

TCEQ

DATES	Assigned	23-Apr-2007	Screening	26-Apr-2007	EPA Due	
	PCW	26-Apr-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Brookshire Municipal Water District		
Reg. Ent. Ref. No.	RN101920312		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33305	No. of Violations	1	
Docket No.	2007-0662-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Libby Hogue	
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

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: A 175% enhancement is recommended for having 31 NOVs for same or similar violations and one final enforcement order containing a denial of liability within the last five years.

Culpability Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Subtotal 5

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

Notes: The Respondent came into compliance with permitted effluent limits on December 31, 2006.

Extraordinary Effort Subtotal 6

Total EB Amounts	\$31	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,500	

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: Recommended reduction in penalty amount to prevent the double counting of self-reported violations.

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 26-Apr-2007

Docket No. 2007-0662-MWD-E

PCW

Respondent Brookshire Municipal Water District

Policy Revision 2 (September 2002)

Case ID No. 33305

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101920312

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component Number of... Enter Number Here Adjust.

NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	31	155%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (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) 175%

>> 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 175% enhancement is recommended for having 31 NOV's for same or similar violations and one final enforcement order containing a denial of liability within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 175%

Screening Date 26-Apr-2007

Docket No. 2007-0662-MWD-E

PCW

Respondent Brookshire Municipal Water District

Policy Revision 2 (September 2002)

Case ID No. 33305

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101920312

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010001001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations for Ammonia Nitrogen during the monitoring periods ending July 31, 2006, August 31, 2006, and September 30, 2006. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

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. Daily average Flow, and Carbonaceous Biochemical Oxygen Demand values were also considered. As a result of this violation, 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 92

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

Violation Base Penalty \$1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$2,410

This violation Final Assessed Penalty (adjusted for limits) \$2,410

Economic Benefit Worksheet

Respondent Brookshire Municipal Water District
Case ID No. 33305
Reg. Ent. Reference No. RN101920312
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
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)	\$1,500	31-Jul-2006	31-Dec-2006	0.4	\$31	n/a	\$31

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the date the respondent came into 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

\$1,500

TOTAL

\$31

ATTACHMENT

Effluent Violation Table
 Brookshire Municipal Water District
 TPDES Permit No. WQ0010001001 (Outfall 001A)
 Docket No. 2007-0662-MWD-E

Permitted Effluent Limits	Monitoring Period End Date		
	07/31/2006	08/31/2006	09/30/2006
NH ₃ -N Daily Avg. 3 mg/L	10.25	9.87	5.24
NH ₃ -N Daily Max. 10 mg/L	16.2	19.8	10.6
Total NH ₃ -N Daily Avg. Loading 16 lbs/day	31.92	40.27	17.19

Avg. = average
Max. = maximum
NH ₃ -N = ammonia nitrogen
mg/L = milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator: CN600676134 Brookshire Municipal Water District Classification: AVERAGE Rating: 2.43

Regulated Entity: RN101920312 BROOKSHIRE MWD Classification: AVERAGE Site Rating: 2.43

ID Number(s):
 WASTEWATER PERMIT WQ0010001001
 WASTEWATER PERMIT TPDES0025046
 WASTEWATER PERMIT TX0025046
 WASTEWATER LICENSING LICENSE WQ0010001001

Location: LOCATED IMMEDIATELY SOUTH OF THE INTERSECTION OF HIGHWAY 10 AND APPRX. 500 FEET WEST OF BROOKSHIRE CREEK IN WALLER COUNTY, TEXAS. Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 09, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 23, 2002 to April 23, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Libby Hogue Phone: 512-239-1165

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance Yes
2. Has there been a (known) change in ownership of the site during the compliance 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 Effective Date: 11/24/2005 ADMINORDER 2005-0647-MWD-E
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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 04/24/2002 (171252)
- 2 05/20/2002 (171256)
- 3 06/17/2002 (171259)
- 4 07/18/2002 (171262)
- 5 08/09/2002 (171265)

6	09/25/2002	(171268)
7	10/10/2002	(171271)
8	11/22/2002	(171274)
9	12/16/2002	(300885)
10	01/16/2003	(171279)
11	02/21/2003	(171246)
12	03/27/2003	(300875)
13	04/24/2003	(171253)
14	05/13/2003	(300878)
15	06/18/2003	(300879)
16	07/28/2003	(300880)
17	08/26/2003	(146778)
18	09/03/2003	(300881)
19	09/22/2003	(300882)
20	10/07/2003	(250678)
21	10/20/2003	(300883)
22	11/25/2003	(300884)
23	12/16/2003	(300886)
24	01/21/2004	(300887)
25	02/17/2004	(300874)
26	03/16/2004	(300876)
27	04/20/2004	(300877)
28	05/24/2004	(354303)
29	06/23/2004	(354304)
30	07/26/2004	(354305)
31	08/31/2004	(354306)
32	09/24/2004	(354307)
33	10/22/2004	(354308)
34	11/23/2004	(383078)
35	12/21/2004	(383079)
36	01/25/2005	(383080)
37	02/25/2005	(441886)
38	03/04/2005	(337413)
39	03/11/2005	(371806)
40	04/01/2005	(441887)
41	04/25/2005	(441888)
42	05/09/2005	(380116)
43	05/26/2005	(441889)
44	06/20/2005	(441890)
45	07/21/2005	(441891)
46	08/30/2005	(441892)
47	09/12/2005	(405423)
48	09/20/2005	(441893)
49	10/21/2005	(470605)
50	11/22/2005	(470606)
51	12/20/2005	(470607)
52	01/26/2006	(439737)
53	02/22/2006	(470603)
54	03/22/2006	(470604)
55	04/24/2006	(499615)
56	05/22/2006	(499616)
57	06/21/2006	(499617)
58	07/21/2006	(521698)
59	08/21/2006	(521699)
60	09/25/2006	(521700)
61	10/13/2006	(546285)
62	10/13/2006	(546286)
63	10/13/2006	(546287)
64	10/13/2006	(546288)
65	10/13/2006	(546289)
66	10/13/2006	(546290)
67	10/13/2006	(546291)
68	10/13/2006	(546292)

69 10/13/2006 (546294)
 70 10/13/2006 (546296)
 71 10/13/2006 (546297)
 72 10/13/2006 (546298)
 73 10/19/2006 (546293)
 74 11/21/2006 (546295)
 75 12/19/2006 (534518)
 76 02/07/2007 (539086)
 77 04/19/2007 (555684)

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

Date	04/30/2002	(171256)		
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	05/31/2002	(171259)		
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	08/31/2002	(171268)		
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	09/30/2002	(171271)		
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	10/31/2002	(171274)		
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	12/31/2002	(171279)		
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	01/31/2003	(171246)		
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	02/28/2003	(300875)		
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	03/31/2003	(171253)		

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 (300878)		
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	05/31/2003 (300879)		
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	06/30/2003 (300880)		
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	07/31/2003 (300881)		
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	08/25/2003 (146778)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)		
Description:	Failure to provide the required back flow prevention devices.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to ensure the flow meter was accurately measuring the flow rate.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to ensure the flow meter was accurately measuring the flow rate.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to collect an effluent sample which is proportional to flow.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)		
Description:	Failure to properly preserve the ammonia-nitrogen samples.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain compliance with the permit limits for ammonia nitrogen.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to accurately report sampling frequency		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to provide permit violation notifications in accordance with the permit requirements and applicable State regulations.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.7(a)		
Description:	Failure to provide safe working conditions.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 330, SubChapter A 330.5(c)		
Description:	Failure to obtain an authorization for disposal of municipal solid waste.		
Date	08/31/2003	(300882)	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)[G]		
Date	09/30/2003	(300883)	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)[G]		
Date	10/31/2003	(300884)	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)[G]		
Date	11/30/2003	(300886)	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)[G]		
Date	06/30/2004	(354305)	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)[G]		
Date	11/30/2004	(383079)	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)[G]		
Date	12/31/2004	(383080)	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)[G]		
Date	03/11/2005	(371806)	

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to comply with NH3-N permit limits.		
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 run either duplicate chlorine analyses or chlorine secondary standards on a 10% basis.		
Date	03/31/2005 (441888)		
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 (441889)		
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	06/10/2005 (377133)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain compliance with permitted effluent limits for ammonia nitrogen (NH3-N).		
Date	07/31/2005 (441892)		
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	08/31/2005 (441893)		
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	01/26/2006 (439737)		
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 properly operate and maintain the clarifier.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)[G]		
Description:	Failure to properly operate and maintain the chlorine contact basin.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain compliance for permitted effluent limit for ammonia nitrogen (NH3-N) and chlorine residuals.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)		

Description: 30 TAC Chapter 317 317.7(i)
FFailure to conduct the annual test of the backflow prevention device on the
potable water line into the wastewater treatment plant.

Date 07/31/2006 (521699)

Self Report? YES

Classific
ation: 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 08/31/2006 (521700)

Self Report? YES

Classific
ation: 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 09/30/2006 (546293)

Self Report? YES

Classific
ation: 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
BROOKSHIRE MUNICIPAL WATER
DISTRICT
RN101920312**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0662-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 Brookshire Municipal Water District ("Brookshire MWD") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Brookshire MWD appear before the Commission and together stipulate that:

1. Brookshire MWD owns and operates a wastewater treatment facility located immediately south of the intersection of Highway 10 and approximately 500 feet west of Brookshire Creek in Waller County, Texas (the "Facility").
2. Brookshire MWD has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Brookshire MWD agree that the Commission has jurisdiction to enter this Agreed Order, and that Brookshire MWD is subject to the Commission's jurisdiction.
4. Brookshire MWD received notice of the violations alleged in Section II ("Allegations") on or about April 24, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Brookshire MWD of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Four Hundred Ten Dollars (\$2,410) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Hundred Eighty-Two Dollars (\$482) is deferred contingent upon Brookshire MWD's timely and satisfactory compliance with all the terms of this Agreed Order. If Brookshire MWD fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Brookshire MWD to pay all or part of the deferred penalty. One Thousand Nine Hundred Twenty-Eight Dollars (\$1,928) shall be conditionally offset by the 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 Brookshire MWD 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 Brookshire MWD has implemented the following corrective measures at the Facility:
 - a. In October 2006, adjustments to flow and the air in the aeration basins were completed and daily monitoring of ammonia nitrogen levels at the influent point, each aeration basin, and the effluent discharge point was implemented;
 - b. In November 2006, increased removal frequency of the sludge blanket in the bottom of the chlorine contact chamber; and
 - c. On December 31, 2006, came into compliance with permitted effluent limits.
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 Brookshire MWD 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, Brookshire MWD is alleged to have failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010001001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 30, 2007, as indicated in the table below.

Effluent Violation Table			
Brookshire Municipal Water District TPDES Permit No. WQ0010001001 (Outfall 001A) Docket No. 2007-0662-MWD-E			
Permitted Effluent Limits	Monitoring Period End Date		
	07/31/2006	08/31/2006	09/30/2006
NH ₃ -N Daily Avg. 3 mg/L	10.25	9.87	5.24
NH ₃ -N Daily Max. 10 mg/L	16.2	19.8	10.6
Total NH ₃ -N Daily Avg. loading 16 lbs/day	31.92	40.27	17.19

Avg. = average
Max. = maximum
NH ₃ -N = ammonia nitrogen
mg/L = milligrams per liter

III. DENIALS

Brookshire MWD generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Brookshire MWD pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Brookshire MWD'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: Brookshire Municipal Water District, Docket No. 2007-0662-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 Brookshire MWD shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. ADMIN. CODE § 7.067. As set forth in Section I, Paragraph 6, One Thousand Nine Hundred Twenty-Eight Dollars (\$1,928) of the assessed administrative penalty shall be offset with the condition that Brookshire MWD implement the SEP defined in Attachment A, incorporated herein by reference. The Brookshire MWD'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 Brookshire MWD. Brookshire MWD 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 Brookshire MWD 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, Brookshire MWD's failure to comply is not a violation of this Agreed Order. Brookshire MWD shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Brookshire MWD shall notify the Executive Director within seven days after Brookshire MWD 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 Brookshire MWD shall be made in writing to the Executive Director. Extensions are not effective until Brookshire MWD 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 Brookshire MWD 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 Brookshire MWD, or three days after the date on which the Commission mails notice of the Order to Brookshire MWD, 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

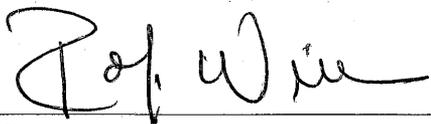
Date 10/27/2007

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

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

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



Signature

Date 7/9/07

Robin Willis

Name (Printed or typed)
Authorized Representative of
Brookshire Municipal Water District

Title President

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: 2007-0662-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Brookshire Municipal Water District

Payable Penalty Amount: One Thousand Nine Hundred Twenty-Eight Dollars (\$1,928)

SEP Amount: One Thousand Nine Hundred Twenty-Eight Dollars (\$1,928)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

Location of SEP: Waller 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 provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

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.

Brookshire Municipal Water District
Agreed Order – Attachment A

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.

Brookshire Municipal Water District
Agreed Order - Attachment A

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.

