EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1650-MWD-E **TCEQ ID:** RN102898459 **CASE NO.:** 31186

RESPONDENT NAME: Acton Municipal Utility District

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	X WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: DeCordova Bend WWTF, on the west bank of McCarty Branch, approximately 2.6 miles south of the intersection of U.S. Highway 377 and Farm-to-Market Road 167, Hood County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ___ Yes _X_ No

OTHER SIGNIFICANT MATTERS: A complaint was received on July 27, 2006, alleging sewer overflow. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received but the complainant has not expressed the desire to protest this action or speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:

SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Section I, MC 169, (512) 239-4490; Mr. Steven Lopez, Enforcement Division, Enforcement Section I, (512) 239-1896
TCEQ Field Investigator: Mr. Robert Ferry, DFW Regional Office, MC R-04, (817) 588-5814
Respondent: Mr. Richard English, General Manager, Acton Municipal Utility District, 2001 Fall Creek Highway, Granbury, Texas 76049
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: X Complaint ___ Routine ___ Enforcement Follow-up ___ Records Review **Date of Complaint Relating to this Case:** July 27, 2006 **Date of Investigation Relating to this Case:** July 28, 2006 **Date of NOE Relating to this Case:** August 30, 2006 (NOE) **Background Facts:** This was a routine complaint investigation for compliance with the water quality program. Two significant program violations were observed. **WATER** 1) Failure to immediately contain a spill or discharge and begin reasonable response actions which include minimizing the impact to the public health and the environment [30 TEX. ADMIN. CODE § 327.5(a)(3) and TEX. WATER CODE § 26.121(a)]. 2) Failure to comply with total chlorine maximum permitted effluent limit of 4.0 milligrams per liter (mg/L) during the months of February and March, 2006, reporting 5.3 mg/L and 4.4 mg/L, respectively [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. 14211001, Effluent Limitations and Monitoring Requirements No. 2].	**Total Assessed:** $5,775 **Total Deferred:** $1,155 X Expedited Settlement ___Financial Inability to Pay **SEP Conditional Offset:** $4,620 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification:** ___High X Avg. ___Poor **Person Compliance History Classification:** ___High X Avg. ___Poor **Major Source:** ___ Yes X No **Applicable Penalty Policy:** September 2002	**Corrective Action Taken** 1) The Executive Director recognizes that Acton MUD has implemented the following corrective measures at the Facility: a) On June 13, 2006, Acton MUD reprogrammed dosage parameter and recalibrated each of the chlorine valves to achieve compliance with the chlorine maximum effluent limit of TPDES Permit No. 14211001 by June 30, 2006; and b) By July 29, 2006, cleaned up the ditch and creek connecting to Lake Granbury by using a vacuum trailer for about eight hours on July 28, 2006 to remove the wastewater which had been pumped into the ditch earlier that day in order to perform the necessary repairs on a broken force main line. **Ordering Provisions** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A). 3) The Order will require the Respondent to: a) Within 60 days after the effective date of this Agreed Order, Acton MUD shall develop and implement written procedures to address spills or unauthorized discharges, including descriptions of response actions to be taken to minimize the impact of the spill or unauthorized discharge to the public health and the environment, telephone numbers and other contact information for owners and operators of the Facility, and specific details as to how the spill or discharge will be contained, and how and where it will be taken for disposal or treatment; and b) Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 3.a.

Attachment A
Docket Number: 2006-1650-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Acton Municipal Utility District**
Payable Penalty Amount:	**Four Thousand Six Hundred Twenty Dollars ($4,620)**
SEP Amount:	**Four Thousand Six Hundred Twenty Dollars ($4,620)**
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:	**Hood 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.

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
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)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	18-Sep-2006				
PCW	28-Sep-2006	Screening	12-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Acton Municipal Utility District		
Reg. Ent. Ref. No.	RN102898459		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31186	No. of Violations	2
Docket No.	2006-1650-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee G. Hupp
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $3,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 65% Enhancement *Subtotals 2, 3, & 7* $2,275

Notes: The penalty is enhanced because the Respondent self-reported 13 monthly effluent violations.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: Respondent did not meet culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: Respondent did not meet good faith effort criteria.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$49
Approx. Cost of Compliance	$1,568

SUM OF SUBTOTALS 1-7 Final Subtotal $5,775

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $5,775

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $5,775

DEFERRAL 20% Reduction Adjustment -$1,155

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $4,620

Screening Date 12-Sep-2006 **Docket No.** 2006-1650-MWD-E **PCW**
Respondent Acton Municipal Utility District *Policy Revision 2 (September 2002)*
Case ID No. 31186 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102898459
Media [Statute] Water Quality
Enf. Coordinator Merrilee G. 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)*	13	65%
	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 judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	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) **65%**

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) **0%**

>> Compliance History *Person* Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> Compliance History Summary

Compliance History Notes The penalty is enhanced because the Respondent self-reported 13 monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **65%**

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	12-Sep-2006
Docket No.	2006-1650-MWD-E
Respondent	Acton Municipal Utility District
Case ID No.	31186
Reg. Ent. Reference No.	RN102898459
Media [Statute]	Water Quality
Enf. Coordinator	Merrilee G. Hupp
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 327.5(a)(3) and Tex. Water Code § 26.121(a)
Secondary Rule Cite(s)	
Violation Description	Failed to immediately contain a spill or discharge and begin reasonable response actions which include minimizing the impact to the public health and the environment, as documented during a July 28, 2006 investigation. Specifically, while repairing a broken six-inch force main, a pump was used to pump the sewage into a ditch so that repairs could be made, resulting in over 6,000 gallons of sewage entering Lake Granbury. No efforts were made to contain this sewage.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to a significant amount of pollutants by the release of sewage.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

mark only one use a small x	
daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended from the investigation date (July 28, 2006) to the date the discharge had ceased and was removed (July 29, 2006).

Economic Benefit (EB) for this violation

Estimated EB Amount $40

Statutory Limit Test

Violation Final Penalty Total $4,125

This violation Final Assessed Penalty (adjusted for limits) $4,125

Economic Benefit Worksheet

Respondent: Acton Municipal Utility District
Case ID No.: 31186
Reg. Ent. Reference No.: RN102898459
Media [Statute]: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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	$1,000	28-Jul-2006	15-May-2007	0.8	$40	n/a	$40
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Cost is estimate for the pumping and disposal and labor associated with the cleanup of the unauthorized discharge as well as the development of proper procedures to be followed to prevent and respond to broken force mains or other wastewater lines. Date required is the date the wastewater was pumped into a ditch which connected to Lake Granbury. The final date is when procedures are expected to be in place to ensure that proper response actions will be taken to minimize a spill's or an unauthorized discharge's impact to public health and the environment.

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: $1,000

TOTAL: $40

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	12-Sep-2006
Docket No.	2006-1650-MWD-E
Respondent	Acton Municipal Utility District
Case ID No.	31186
Reg. Ent. Reference No.	RN102898459
Media [Statute]	Water Quality
Enf. Coordinator	Merrilee G. Hupp

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. 14211001, Effluent Limitations and Monitoring Requirements No. 2

Secondary Rule Cite(s)

Violation Description Failed to comply with total chlorine maximum permitted effluent limit of 4.0 milligrams per liter (mg/L) during the months of February and April, 2006, reporting 5.3 mg/L and 4.4 mg/L, respectively.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants below levels that are protective of human health or environmental receptors.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 1

mark only one (use a small x)	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended for the noncompliant period from February to April 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $9

Statutory Limit Test

Violation Final Penalty Total $1,650

This violation Final Assessed Penalty (adjusted for limits) $1,650

Economic Benefit Worksheet

Respondent: Acton Municipal Utility District
Case ID No.: 31186
Reg. Ent. Reference No.: RN102898459
Media [Statute]: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)	$568	28-Feb-2006	30-Jun-2006	0.3	$9	n/a	$9

Notes for DELAYED costs: Cost reflects 6.5 hours of labor in addition to the travel expense ($.80/mile for 160 miles) associated with the reprogramming of the dosage parameter and the recalibration of each chlorinator valve to ensure compliant effluent with respect to chlorine maximums. Date required is the first month of the noncompliant quarter and the final date is the first month of compliance following the noncompliant quarter.

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: $568

TOTAL: $9

Compliance History

Customer/Respondent/Owner-Operator:	CN600647945	Acton MUD	Classification: Average	Rating: 1.30
Regulated Entity:	RN102898459	DECORDOVA BEND WWTP	Classification: Average	Site Rating: 0.67
ID Number(s):	WASTEWATER PERMIT WQ0014211001			
	WASTEWATER PERMIT TX0105163			
Location:	LOCATED ON THE W BANK OF MC CARTY BRANCH APPROXIMATELY 2.6 MI SOUTH OF THE INTERSECTION OF US HWY 377 AND FM 167 HOOD COUNTY		Rating Date: 9/1/2006	Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 20, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 20, 2001 to September 20, 2006

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

Name: Merrilee G. Hupp Phone: 512-239-4490

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. if Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1 01/21/2003 (223924)
2 01/07/2003 (18453)
3 12/27/2002 (223923)
4 11/22/2002 (223922)
5 09/20/2002 (223921)
6 08/14/2002 (223920)
7 07/19/2002 (223919)
8 06/26/2002 (223918)
9 05/09/2002 (223917)
10 04/24/2002 (223916)
11 03/31/2003 (223915)
12 03/25/2002 (223914)
13 02/20/2003 (223913)
14 02/22/2002 (223912)
15 07/11/2005 (446651)
16 09/26/2005 (446652)
17 02/16/2006 (479484)
18 09/12/2005 (446653)
19 03/15/2006 (479485)
20 10/24/2005 (479486)
21 11/14/2005 (479487)
22 12/15/2005 (479488)

23 01/09/2006 (479489)
24 02/09/2004 (322973)
25 03/19/2004 (322974)
26 04/17/2003 (322975)
27 04/19/2004 (322976)
28 05/27/2003 (322977)
29 06/16/2003 (322978)
30 06/14/2004 (322979)
31 07/18/2003 (322980)
32 01/09/2004 (322981)
33 09/20/2002 (322982)
34 09/17/2003 (322983)
35 08/31/2006 (510137)
36 10/17/2003 (322984)
37 11/19/2003 (322985)
38 12/16/2003 (322986)
39 06/04/2004 (322987)
40 02/23/2005 (430610)
41 03/25/2003 (430611)
42 04/11/2005 (430612)
43 05/13/2004 (430613)
44 08/31/2006 (510585)
45 05/12/2005 (430614)
46 06/16/2005 (430615)
47 07/23/2004 (430616)
48 09/22/2004 (430617)
49 09/17/2004 (430618)
50 11/18/2004 (430619)
51 11/18/2004 (430620)
52 12/17/2004 (430621)
53 01/12/2005 (430622)
54 04/14/2006 (505213)
55 05/08/2006 (505214)
56 03/03/2004 (264193)
57 06/16/2006 (505215)
58 12/05/2003 (254515)

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

Date: 10/31/2002 (223922)
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: 07/31/2002 (223920)
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: 06/30/2002 (223919)
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 (223918)

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: 04/30/2002 (223917)
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: 02/28/2006 (479485)
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 (322975)
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 (322978)
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: 08/31/2003 (322983)
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: 06/30/2004 (430616)
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: 07/31/2004 (430617)
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: 08/31/2004 (430618)
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: 04/30/2006 (505214)
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.

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 ACTON MUNICIPAL UTILITY DISTRICT RN102898459	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1650-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 Acton Municipal Utility District ("Acton MUD") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Acton MUD appear before the Commission and together stipulate that:

1. Acton MUD owns and operates a wastewater treatment facility on the west bank of McCarty Branch, approximately 2.6 miles south of the intersection of U.S. Highway 377 and Farm-to-Market Road 167 in Hood County, Texas (the "Facility").

2. Acton MUD has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and Acton MUD agree that the Commission has jurisdiction to enter this Agreed Order, and that Acton MUD is subject to the Commission's jurisdiction.

4. Acton MUD received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Acton MUD of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Seven Hundred Seventy-Five Dollars ($5,775) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand One Hundred Fifty-Five Dollars ($1,155) is deferred contingent upon Acton MUD'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 Acton

MUD fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Acton MUD to pay all or part of the deferred penalty. Four Thousand Six Hundred Twenty Dollars ($4,620) shall be conditionally offset by Acton MUD'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 Acton MUD 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 Acton MUD has implemented the following corrective measures at the Facility:

   a. On June 13, 2006, Acton MUD reprogrammed dosage parameter and recalibrated each of the chlorine valves to achieve compliance with the chlorine maximum effluent limit of TPDES Permit No. 14211001 by June 30, 2006; and

   b. By July 29, 2006, cleaned up the ditch and creek connecting to Lake Granbury by using a vacuum trailer for about eight hours on July 28, 2006 to remove the wastewater which had been pumped into the ditch earlier that day in order to perform the necessary repairs on a broken force main line.

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 Acton MUD 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, Acton MUD is alleged to have:

1. Failed to immediately contain a spill or discharge and begin reasonable response actions which include minimizing the impact to the public health and the environment, in violation of 30 TEX. ADMIN. CODE § 327.5(a)(3) and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on July 28, 2006.

2. Failed to comply with total chlorine maximum permitted effluent limit of 4.0 milligrams per liter (mg/L) during the months of February and March, 2006, reporting 5.3 mg/L and 4.4 mg/L, respectively, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. 14211001, Effluent Limitations and Monitoring Requirements No. 2, as documented during an investigation conducted on July 28, 2006.

III. DENIALS

Acton MUD generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Acton MUD pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Acton MUD'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: Acton Municipal Utility District, Docket No. 2006-1650-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. Acton MUD shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Six Hundred Twenty Dollars ($4,620) of the assessed administrative penalty shall be offset with the condition that Acton MUD implement the SEP defined in Attachment A, incorporated herein by reference. Acton MUD'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 Acton MUD shall undertake the following technical requirements:

   a. Within 60 days after the effective date of this Agreed Order, Acton MUD shall develop and implement written procedures to address spills or unauthorized discharges, including descriptions of response actions to be taken to minimize the impact of the spill or unauthorized discharge to the public health and the environment, telephone numbers and other contact information for owners and operators of the Facility, and specific details as to how the spill or discharge will be contained, and how and where it will be taken for disposal or treatment; and

b. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 3.a.

The certification shall include detailed supporting documentation including 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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:

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

4. The provisions of this Agreed Order shall apply to and be binding upon Acton MUD. Acton MUD 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 Acton MUD 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, Acton MUD's failure to comply is not a violation of this Agreed Order. Acton MUD shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Acton MUD shall notify the Executive Director within seven days after Acton MUD 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 Acton MUD shall be made in writing to the Executive Director. Extensions are not effective until Acton MUD 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 Acton MUD 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 Acton MUD, or three days after the date on which the Commission mails notice of the Order to Acton MUD, 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

4/3/07
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.

Signature

December 8, 2006
Date

Richard English
Name (Printed or typed)
Authorized Representative of
Acton Municipal Utility District

General Manager
Title

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

Attachment A
Docket Number: 2006-1650-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Acton Municipal Utility District**
Payable Penalty Amount:	**Four Thousand Six Hundred Twenty Dollars ($4,620)**
SEP Amount:	**Four Thousand Six Hundred Twenty Dollars ($4,620)**
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:	**Hood 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.

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
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.