EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1101-MWD-E **TCEQ ID:** RN102183035 **CASE NO.:** 34180

RESPONDENT NAME: Orange County Water Control and Improvement District No. 1

ORDER TYPE:		
_X_1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
_X_WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Tiger Lake Plant, approximately 3,500 feet southwest of the intersection of Farm-to-Market Road 1132 and State Highway 105, Orange County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ____ **Yes** _X_ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 17, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Team 1, MC 169, (512) 239-4490; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Ms. Darlene Jackson, District Manager, Orange County Water Control and Improvement District No. 1, 460 East Bolivar Street, Vidor, Texas 77662
Mr. Charles B. Pierce, President, Orange County Water Control and Improvement District No. 1, 460 East Bolivar Street, Vidor, Texas 77662
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: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** June 25, 2007 **Date of NOV/NOE Relating to this Case:** July 5, 2007 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **WATER** Failure to comply with permitted effluent limitations for pH, Ammonia Nitrogen, Flow, and Total Suspended Solids. [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), TPDES Permit No. WQ10875003, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].	**Total Assessed:** $4,500 **Total Deferred:** $900 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $3,600 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ10875003. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.

Attachment A
Docket Number: 2007-1101-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Orange County Water Control Improvement District No. 1**
Payable Penalty Amount:	**Three Thousand Six Hundred Dollars ($3,600)**
SEP Amount:	**Three Thousand Six Hundred Dollars ($3,600)**
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:	**Orange 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, 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 June 26, 2007*

TCEQ

DATES					
Assigned	9-Jul-2007				
PCW	12-Jul-2007	Screening	12-Jul-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Orange County Water Control and Improvement District No. 1		
Reg. Ent. Ref. No.	RN102183035		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34180	No. of Violations	1
Docket No.	2007-1101-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* $3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 50% Enhancement — *Subtotals 2, 3, & 7* $1,500

Notes: The Respondent self-reported nine effluent violations and received one NOV for same or similar violations.

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

Notes: The Respondent does not meet the 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 x)

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

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$4,426
Approx. Cost of Compliance	$40,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $4,500

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0% — *Adjustment* $0

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

Notes:

Final Penalty Amount $4,500

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $4,500

DEFERRAL — 20% Reduction — *Adjustment* -$900

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 $3,600

Screening Date 12-Jul-2007 **Docket No.** 2007-1101-MWD-E **PCW**

Respondent Orange County Water Control and Improvement District I

Policy Revision 2 (September 2002)

Case ID No. 34180

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102183035

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*)	10	50%
	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 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) 50%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported nine effluent violations and received one NOV for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

PCW

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

Screening Date 12-Jul-2007 **Docket No.** 2007-1101-MWD-E

Respondent Orange County Water Control and Improvement District No. 1

Case ID No. 34180

Reg. Ent. Reference No. RN102183035

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), TPDES Permit No. WQ10875003, Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description Failed to comply with permitted effluent limitations. (See Effluent Violation Table).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. TSS, flow, and pH values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 3

121 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $4,426

Statutory Limit Test

Violation Final Penalty Total $4,500

This violation Final Assessed Penalty (adjusted for limits) $4,500

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 1
Case ID No. 34180
Reg. Ent. Reference No. RN102183035
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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	$40,000	31-Jul-2006	28-Feb-2008	1.6	$211	$4,216	$4,426
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)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost is for the assessment of the collection system and treatment units of the wastewater treatment plant to determine the corrective actions to take to resolve effluent noncompliances. Date required is the first noncompliant month and final date is when compliance is expected to be achieved.

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: $40,000

TOTAL: $4,426

Orange County Water Control and Improvement District No. 1
RN102183035
Docket No. 2007-1101-MWD-E

Effluent Violation Table

Effluent Characteristic **Units**	**pH Minimum** **(s.u.)**	**Daily Average NH_3-N Conc. (mg/L)**	**Daily Average NH_3-N Loading (lbs/day)**	**Daily Average Flow (MGD)**	**Daily Average TSS Loading (lbs/day)**	**Daily Average Conc. TSS (mg/L)**
Permit Limit April 1, 2002-August 15, 2006:	**6.0**	**3.0**	**4.8**	**0.190**	**24.0**	**15**
August 16, 2006-August 1, 2011:	**6.0**	**3.0**	**6.0**	**0.255**	**32.0**	**15**
Month Year						
July 31, 2006	c	c	c	c	28.84	c
October 31, 2006	c	c	c	0.2751	52.56	c
January 31, 2007	c	4.22	c	0.2715	c	15.96
February 28, 2007	5.5	c	10.42	c	33.03	c

c: compliant TSS: total suspended solids NH_3-N: ammonia-nitrogen conc: concentration
s.u.: standard units MGD: million gallons per day lbs/day: pounds per day mg/L: milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator:	CN601441850	Orange County Water Control and Improvement District No. 1	Classification: AVERAGE	Rating: 3.60
Regulated Entity:	RN102183035	TIGER LAKE PLANT	Classification: AVERAGE	Site Rating: 0.41

ID Number(s):	WASTEWATER	PERMIT	WQ0010875003
	WASTEWATER	PERMIT	TPDES0108073
	WASTEWATER	PERMIT	TX0108073
	WASTEWATER LICENSING	LICENSE	WQ0010875003

Location:	approx. 3,500 ft. SW of the intersec. of FM Road 1132 & State Hwy. 105, Orange County	Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT	
Date Compliance History Prepared:	July 11, 2007	
Agency Decision Requiring Compliance History:	Enforcement	
Compliance Period:	July 11, 2002 to July 11, 2007	

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	07/23/2002	(225783)
2	08/19/2002	(225786)
3	09/23/2002	(225789)
4	10/14/2002	(225792)
5	11/18/2002	(225796)
6	12/30/2002	(225800)
7	01/27/2003	(225803)
8	02/24/2003	(225768)
9	03/14/2003	(225771)
10	04/22/2003	(323780)
11	05/22/2003	(323782)
12	06/12/2003	(323783)
13	07/23/2003	(323784)
14	08/22/2003	(323785)
15	09/17/2003	(323786)
16	10/16/2003	(323788)
17	12/22/2003	(323790)
18	01/05/2004	(323789)
19	01/21/2004	(323791)
20	02/20/2004	(323778)
21	03/18/2004	(323779)
22	04/21/2004	(323781)
23	05/21/2004	(364832)
24	06/15/2004	(364833)
25	07/19/2004	(364834)
26	08/16/2004	(364835)
27	09/16/2004	(364836)
28	10/21/2004	(364837)

29 11/23/2004 (388944)
30 12/15/2004 (388945)
31 01/14/2005 (388946)
32 02/10/2005 (426543)
33 03/21/2005 (388943)
34 04/26/2005 (426544)
35 05/23/2005 (426545)
36 06/20/2005 (426546)
37 07/18/2005 (446802)
38 08/19/2005 (446803)
39 09/14/2005 (446804)
40 10/09/2005 (490574)
41 11/18/2005 (490575)
42 12/19/2005 (490576)
43 01/23/2006 (490577)
44 02/07/2006 (440201)
45 02/27/2006 (490572)
46 03/21/2006 (490573)
47 04/19/2006 (505388)
48 05/22/2006 (505389)
49 05/30/2006 (479801)
50 06/21/2006 (505390)
51 07/24/2006 (527675)
52 08/22/2006 (527676)
53 09/22/2006 (527674)
54 11/10/2006 (551333)
55 11/27/2006 (551334)
56 12/22/2006 (551335)
57 03/15/2007 (543431)
58 07/06/2007 (565464)

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

Date 12/31/2002 (225803)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 11/30/2003 (323790)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 02/28/2005 (388943)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 03/31/2005 (426544)
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 12/31/2005 (490577)
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 02/07/2006 (440201)
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IEL&MR 2
Description: The effluent total chlorine residual was 0.83 mg/l.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT M&RR 5
Description: Flow accuracy check revealed a flow error of 13.8%.

Self Report? NO Classification: Minor
Rqmt Prov: PERMIT OpR 1
Description: Heavy algae growth on clarifier weirs.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IEL&MR 1
Description: Daily average flow limits were exceeded during the months of 12/2002, 11/2003, and 02/2005.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Solids levels within the system were higher than generally accepted industry standards for a complete mix system.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT OpR 1
PERMIT PC 2g

Description: On 01/31/2005, the lift station serving Dundee street failed, causing an unauthorized discharge of an estimated 9,000 gallons. On 12/25/2005 through 12/26/2005, the District reported that a switch failure on the automatic bar screen caused a discharge of an estimated 60,000 gallons of raw sewage.

Date 07/31/2006 (527676)

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 10/31/2006 (551334)

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 01/31/2007

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 02/28/2007

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
ORANGE COUNTY WATER	§	**TEXAS COMMISSION ON**
CONTROL AND IMPROVEMENT	§	
DISTRICT NO. 1	§	
RN102183035	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1101-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 Orange County Water Control and Improvement District No. 1 ("the WCID") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the WCID appear before the Commission and together stipulate that:

1. The WCID owns and operates a wastewater treatment facility approximately 3,500 feet southwest of the intersection of Farm-to-Market Road 1132 and State Highway 105 in Orange County, Texas (the "Facility").

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

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

4. The WCID received notice of the violations alleged in Section II ("Allegations") on or about July 10, 2007.

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

6. An administrative penalty in the amount of Four Thousand Five Hundred Dollars ($4,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nine Hundred Dollars ($900) is deferred contingent upon the WCID's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the WCID fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the WCID to pay all or part of the deferred penalty. Three Thousand Six Hundred Dollars ($3,600) shall be conditionally offset by the WCID's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the WCID have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the WCID has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the WCID is alleged to have failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ10875003, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on June 25, 2007 and shown in the following table:

Effluent Characteristic **Units** **Permit Limit April 1, 2002- August 15, 2006:**	**pH Minimum** **(s.u.)** **6.0**	**Daily Average NH_3-N Conc. (mg/L)** **3.0**	**Daily Average NH_3-N Loading (lbs/day)** **4.8**	**Daily Average Flow** **(MGD)** **0.190**	**Daily Average TSS Loading (lbs/day)** **24.0**	**Daily Average Conc. TSS (mg/L)** **15**
August 16, 2006- August 1, 2011: **Month Year**	**6.0**	**3.0**	**6.0**	**0.255**	**32.0**	**15**
July 31, 2006	c	c	c	c	28.84	c
October 31, 2006	c	c	c	0.2751	52.56	c
January 31, 2007	c	4.22	c	0.2715	c	15.96
February 28, 2007	5.5	c	10.42	c	33.03	c

c: compliant TSS: total suspended solids NH_3-N: ammonia-nitrogen conc: concentration
s.u.: standard units MGD: million gallons per day lbs/day: pounds per day mg/L: milligrams per liter

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the WCID pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the WCID'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: Orange County Water Control and Improvement District No. 1, Docket No. 2007-1101-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 WCID shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Three Thousand Six Hundred Dollars ($3,600) of the assessed administrative penalty shall be offset with the condition that the WCID implements the SEP defined in Attachment A, incorporated herein by reference. The WCID's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the WCID shall, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ10875003. 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:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the WCID. The WCID is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. If the WCID 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 WCID's failure to comply is not a violation of this Agreed Order. The WCID shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The WCID shall notify the Executive Director within seven days after the WCID

becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the WCID shall be made in writing to the Executive Director. Extensions are not effective until the WCID receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the WCID in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the WCID, or three days after the date on which the Commission mails notice of the Order to the WCID, 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 12/10/2007

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 10/11/2007

Charles B. Pierce
Name (Printed or typed)
Authorized Representative of
Orange County Water Control and Improvement District No. 1

President
Title

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

Attachment A
Docket Number: 2007-1101-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Orange County Water Control Improvement District No. 1**
Payable Penalty Amount:	**Three Thousand Six Hundred Dollars ($3,600)**
SEP Amount:	**Three Thousand Six Hundred Dollars ($3,600)**
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:	**Orange 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, 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.