

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0299-MWD-E **TCEQ ID:** RN101527596 **CASE NO.:** 35400
RESPONDENT NAME: Harris County Water Control and Improvement District No. 89

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Morningside Place, located north of Fellows Road, approximately 3,600 feet west of the intersection of Fellows Road and Farm-to-Market Road 518 (Cullen Boulevard), Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 15, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Sharyn Smalls, President, Harris County Water Control and Improvement District No. 89, 3730 Kirby Drive, Suite 1050, Houston, Texas 77098 Respondent's Attorney: Mr. Arthur C. Washington, Attorney, Washington & Associates, 3730 Kirby Drive, Suite 1050, Houston, Texas 77098</p>		

TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 2008-09-12 PM 11:56
 CHIEF CLERKS OFFICE

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 Record Review Relating to this Case: December 18, 2007</p> <p>Date of NOE Relating to this Case: January 18, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with its permitted effluent limits for total suspended solids, ammonia nitrogen, daily average flow, and biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012939001 Interim I Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$18,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$18,000</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>Findings Orders Justification: This is a Findings Order because environmental receptors have been exposed to pollutants which exceed levels that are protective of human health or the environment.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 365 days after the effective date of this Agreed Order, submit written compliance with the effluent limits of TPDES Permit No. WQ0012939001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): Texas Pollution Discharge Elimination System Permit No. WQ0012939001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES	Assigned	4-Feb-2008	Screening	14-Feb-2008	EPA Due	17-Mar-2008
	PCW	17-Mar-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Harris County Water Control and Improvement District No. 89		
Reg. Ent. Ref. No.	RN101527596		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35400	No. of Violations	2	
Docket No.	2008-0299-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell	
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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/> x	(mark with x)

Notes

Total EB Amounts **Subtotal 6**
Approx. Cost of Compliance ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 14-Feb-2008

Docket No. 2008-0299-MWD-E

PCW

Respondent Harris County Water Control and Improvement District N

Policy Revision 2 (September 2002)

Case ID No. 35400

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101527596

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

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 <i>(number of NOVs meeting criteria)</i>	10	50%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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)

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

The Respondent has one NOV for the same violations and has nine months of self-reported effluent violations.

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

Screening Date 14-Feb-2008

Docket No. 2008-0299-MWD-E

PCW

Respondent Harris County Water Control and Improvement District No. 89

Policy Revision 2 (September 2002)

Case ID No. 35400

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101527596

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System Permit No. WQ0012939001 Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with its permitted effluent limits as shown in the attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="50%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

A simplified model was utilized to evaluate the values for NH₃-N, BOD₅, and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were significant and exceeded levels protective of human health or environmental receptors. Total suspended solids were also evaluated.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended for violations that occurred in August 2007 and September 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Harris County Water Control and Improvement District No. 89
Case ID No. 35400
Reg. Ent. Reference No. RN101527596
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$10,000	1-Oct-2006	1-Jun-2009	2.7	\$89	\$1,779	\$1,868
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$50,000	1-Oct-2006	1-Jun-2009	2.7	\$445	\$8,895	\$9,340
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

This is the estimated cost to replace two blowers that malfunctioned and to initiate construction of a new Facility. The date required is the date that the violations began and the final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$60,000

TOTAL

\$11,208

Screening Date 14-Feb-2008

Docket No. 2008-0299-MWD-E

PCW

Respondent Harris County Water Control and Improvement District No. 89

Policy, Revision 2 (September 2002)

Case ID No. 35400

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101527596

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System Permit No. WQ0012939001 Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with its permitted effluent limits as shown in the attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

A simplified model was utilized to evaluate the values for NH₃-N, BOD₅, and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or environmental receptors. Total suspended solids were also evaluated.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two quarterly events are recommended for violations that occurred in October 2006, June 2007, and July 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Harris County Water Control and Improvement District No. 89
Case ID No. 35400
Reg. Ent. Reference No. RN101527596
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation no. 1.

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 \$0

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600736839	Harris County Water Control and Improvement District 89	Classification: AVERAGE	Rating: 0.38
Regulated Entity:	RN101527596	MORNINGSIDE PLACE	Classification: AVERAGE	Site Rating: 0.38
ID Number(s):	WASTEWATER	PERMIT	WQ0012939001	
	WASTEWATER	PERMIT	TPDES0095842	
	WASTEWATER	PERMIT	TX0095842	
	WASTEWATER LICENSING	LICENSE	WQ0012939001	
Location:	N OF FELLOWS RD, APPR. 3,600 FT W OF THE INTERSECTION OF FELLOWS RD AND FM 518 (CULLEN BLVD), HARRIS CO TX		Rating Date: 9/1/2007	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	February 06, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 06, 2003 to February 06, 2008			
TCEQ Staff Member to Contact for Additional Information	Regarding this Compliance History			
Name:	<u>Pamela Campbell</u>	Phone:	<u>512 239-4493</u>	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | 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 02/17/2003 (216852) |
| | 2 03/24/2003 (216855) |
| | 3 04/17/2003 (216860) |
| | 4 05/20/2003 (320169) |
| | 5 06/16/2003 (320170) |
| | 6 07/25/2003 (320171) |
| | 7 09/02/2003 (320172) |
| | 8 09/23/2003 (320173) |
| | 9 10/21/2003 (320174) |
| | 10 12/05/2003 (320175) |
| | 11 12/29/2003 (320176) |
| | 12 02/02/2004 (320177) |
| | 13 02/25/2004 (320167) |
| | 14 04/02/2004 (320168) |
| | 15 05/21/2004 (362745) |
| | 16 06/03/2004 (362746) |
| | 17 06/09/2004 (269412) |
| | 18 07/06/2004 (362747) |
| | 19 07/27/2004 (362748) |
| | 20 09/07/2004 (362750) |
| | 21 09/21/2004 (362749) |
| | 22 09/30/2004 (362751) |
| | 23 11/29/2004 (387904) |
| | 24 12/06/2004 (362753) |
| | 25 12/27/2004 (387905) |
| | 26 02/02/2005 (387906) |
| | 27 03/16/2005 (387902) |
| | 28 03/21/2005 (387903) |
| | 29 04/25/2005 (425536) |
| | 30 05/19/2005 (425537) |
| | 31 06/20/2005 (425538) |
| | 32 07/22/2005 (446089) |
| | 33 09/19/2005 (446090) |
| | 34 10/26/2005 (478284) |
| | 35 11/29/2005 (478285) |
| | 36 01/04/2006 (478286) |
| | 37 02/03/2006 (478287) |
| | 38 02/22/2006 (478282) |
| | 39 03/24/2006 (478283) |
| | 40 04/24/2006 (504530) |
| | 41 05/23/2006 (504531) |
| | 42 06/14/2006 (504532) |
| | 43 07/13/2006 (504533) |
| | 44 08/23/2006 (526849) |
| | 45 09/18/2006 (526850) |

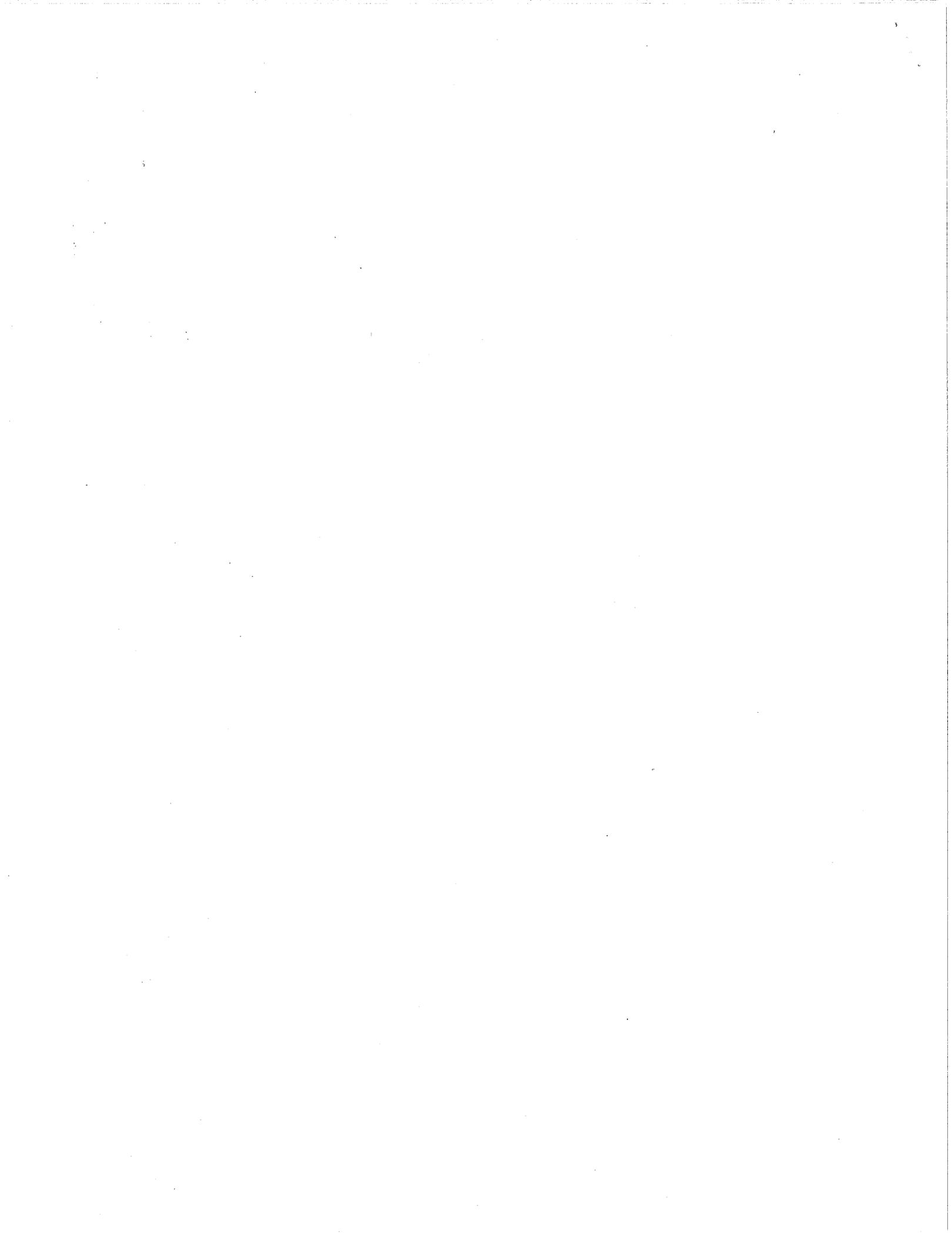
46	10/02/2006	(487796)
47	10/13/2006	(526851)
48	05/30/2007	(560404)
49	01/28/2008	(612401)
50	01/31/2008	(616210)

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

Date:	02/28/2003	(216855)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2003	(320172)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2005	(478284)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2006	(526850)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/02/2006	(487796)	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 317 317.4(g)(4)(B)(iii)			
Description:	Failure to provide back-up aeration.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 317 317.7(c)			
Description:	Failure to provide adequate lightening at the wastewater treatment plant (WWTP).			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Description:	Failure to properly maintain the wastewater treatment plant.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TPDES Permit No. 12939-001			
Description:	Failure to maintain compliance with permitted effluent limits for ammonia.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.5(a)			
Description:	Failure to measure flow after the final treatment unit.			
Date:	10/31/2006		Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2007		Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2007		Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2007		Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2007		Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			

F. Environmental audits.

- G. N/A
Type of environmental management systems (EMSs).
- H. N/A
Voluntary on-site compliance assessment dates.
- I. N/A
Participation in a voluntary pollution reduction program.
- J. N/A
Early compliance.
- Sites Outside of Texas
N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 SEP 22 AM 11: 57
CHIEF CLERK'S OFFICE

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HARRIS COUNTY WATER CONTROL
AND IMPROVEMENT DISTRICT NO. 89
RN101527596

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

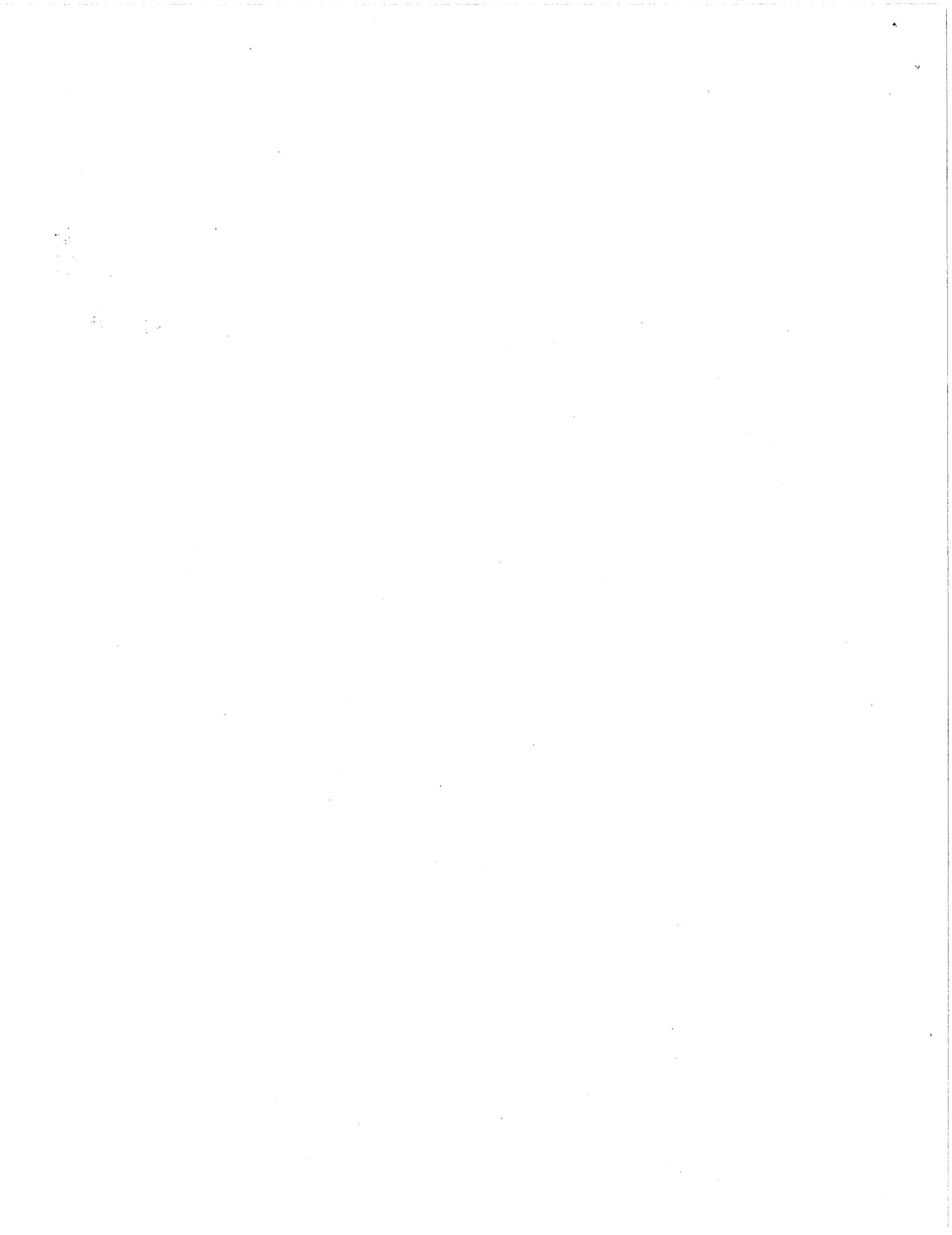
**AGREED ORDER
DOCKET NO. 2008-0299-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Harris County Water Control and Improvement District No. 89 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by the law firm of Washington & Associates presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:



I. FINDINGS OF FACT

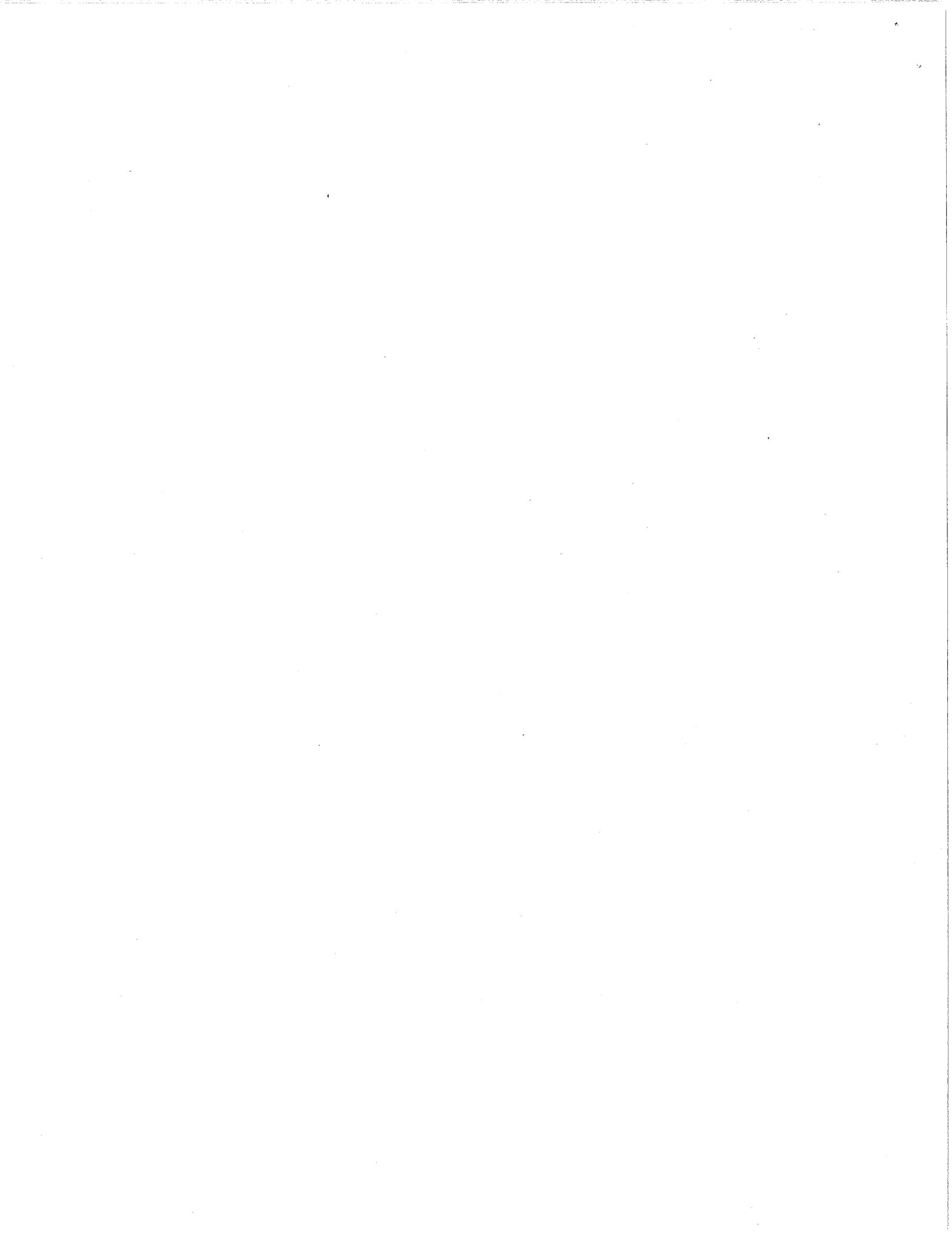
1. The Respondent owns and operates a wastewater treatment plant located north of Fellows Road, approximately 3,600 feet west of the intersection of Fellows Road and Farm-to-Market Road 518 (Cullen Boulevard) in Harris County, Texas (the "Facility").
2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on December 18, 2007, TCEQ staff documented the following effluent data as shown in the table below:

<i>Month/Year</i>	Total Suspended Solids Daily Ave. Loading	Total Suspended Solids Daily Ave. Concentration	Total Suspended Solids Single Grab	Ammonia Nitrogen Daily Ave. Loading	Ammonia Nitrogen Daily Ave. Concentration	Ammonia Nitrogen Single Grab	Daily Average Flow	Biochemical Oxygen Demand Daily Ave. Loading	Biochemical Oxygen Demand Daily Ave. Concentration
<i>Month/Year</i>	25 lbs/day	12 mg/L	60 mg/L	4.2 lbs/day	2 mg/L	15 mg/L	0.25 MGD	10 lbs/day	5 mg/L
Oct-06	c	c	c	4.7	2.8	c	c	c	c
Jun-07	c	c	c	c	c	c	0.265	c	c
Jul-07	c	c	c	c	c	c	0.307	c	c
Aug-07	68.53	20.4	72	17.74	7.15	28.7	0.32	31.96	9.0
Sep-07	c	c	c	9.11	3.33	c	0.317	12.27	c

4. The Respondent received notice of the violations on or about February 2, 2008.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 1, the Respondent failed to comply with its permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012939001 Interim I Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Eighteen Thousand Dollars (\$18,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Eighteen Thousand Dollar (\$18,000) administrative penalty.



III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Eighteen Thousand Dollars (\$18,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Harris County Water Control and Improvement District No. 89, Docket No. 2008-0299-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

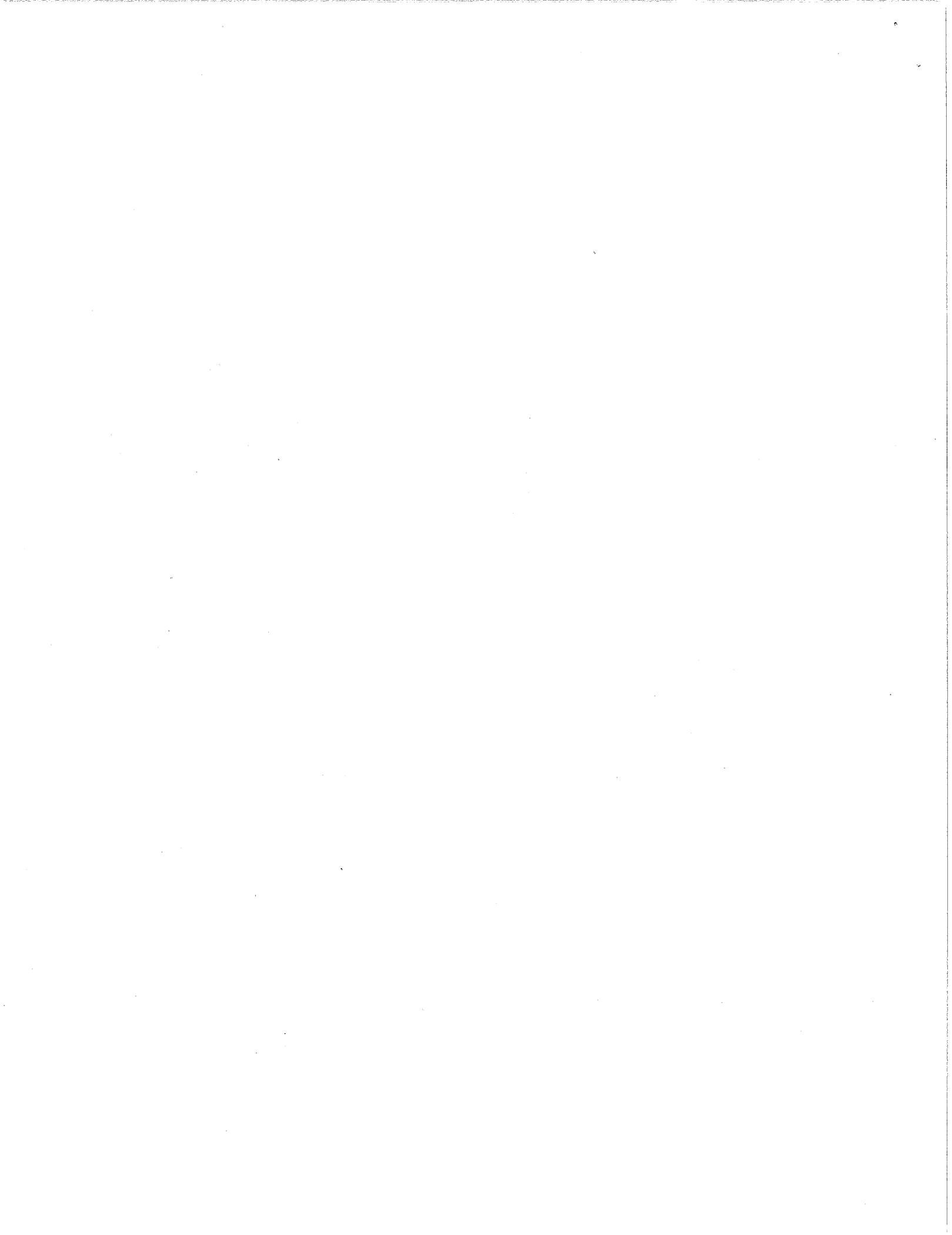
2. The Respondent shall, within 365 days after the effective date of this Agreed Order, submit written compliance with the effluent limits of TPDES Permit No. WQ0012939001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

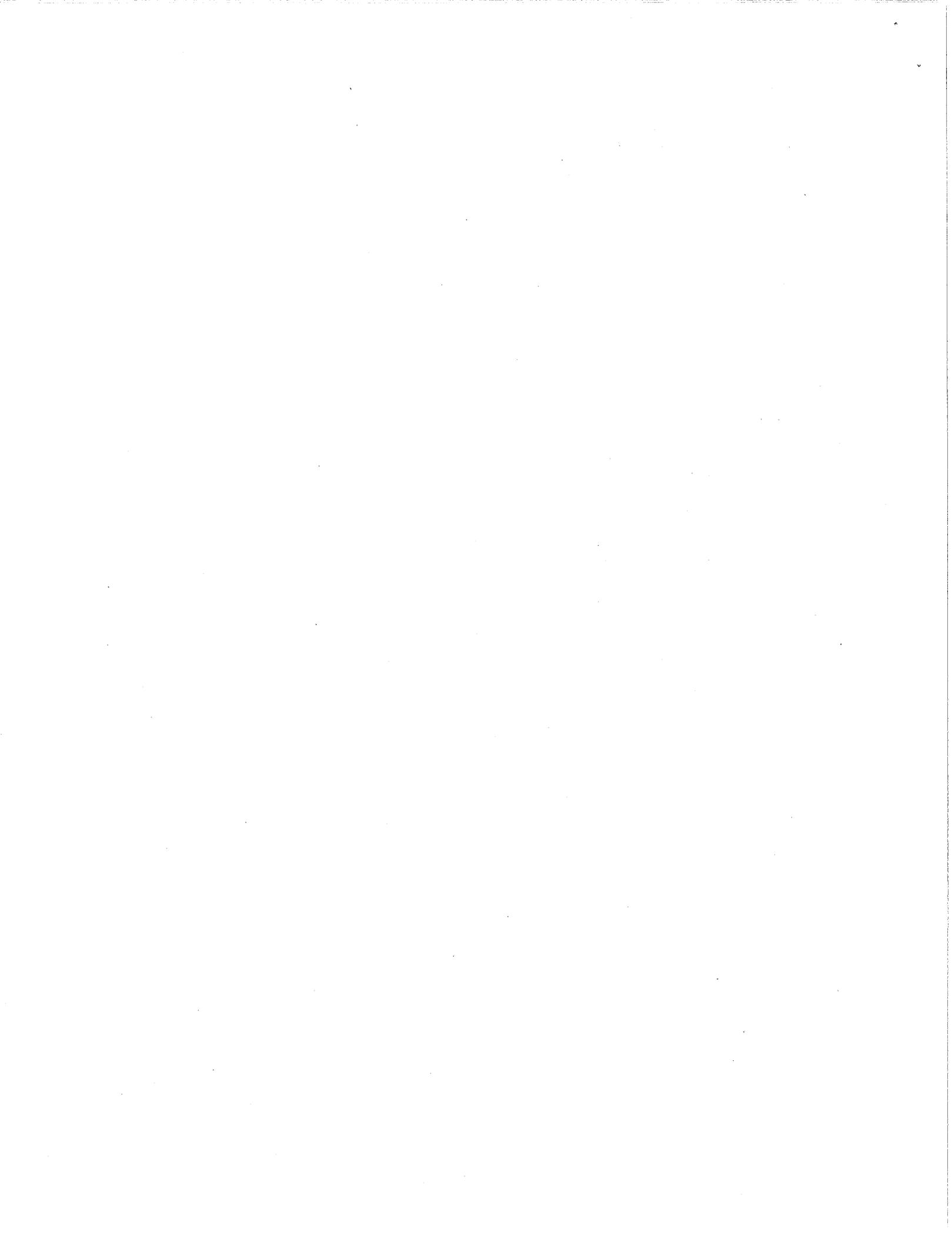
Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:



Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
9. 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.

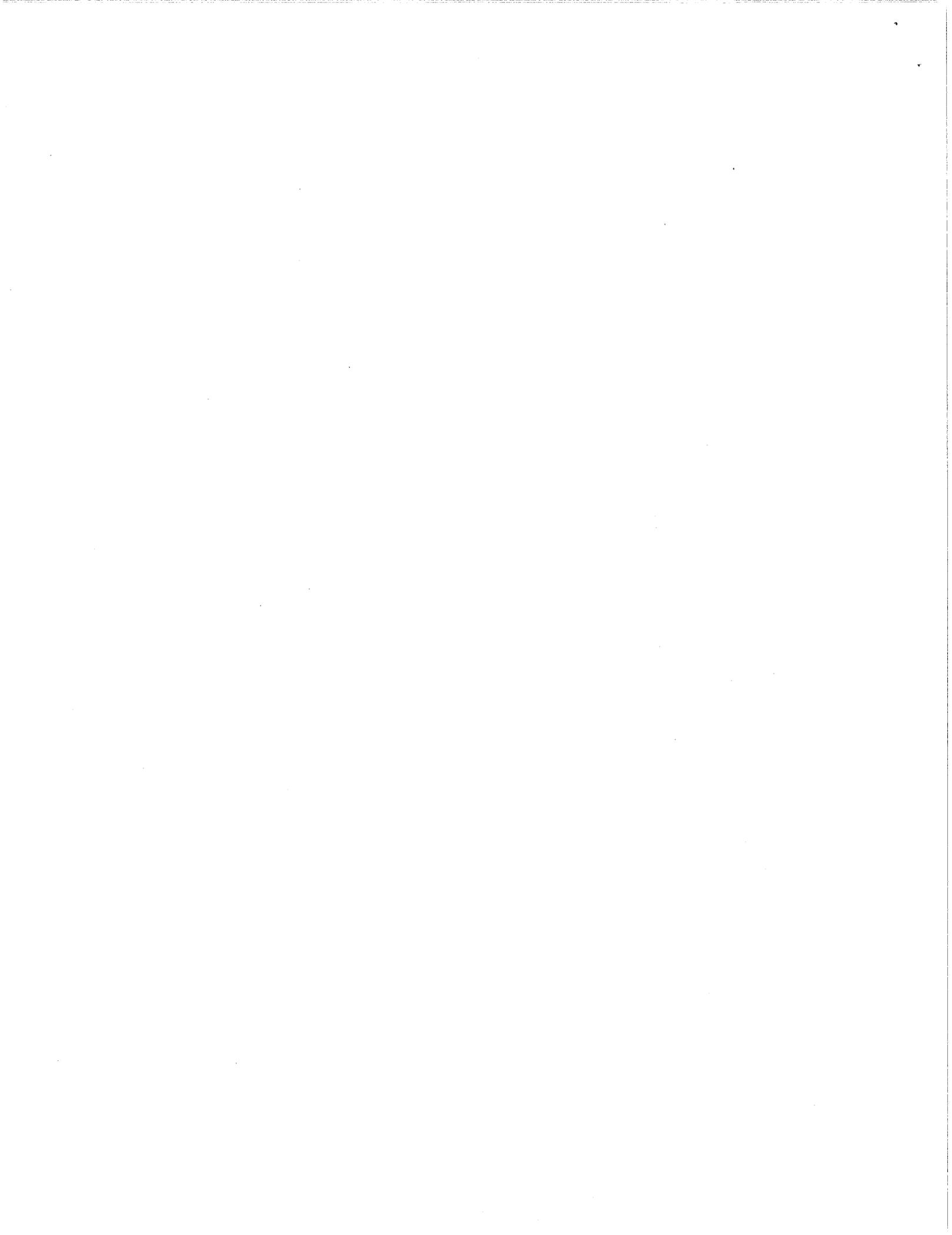


Harris County Water Control and Improvement District No. 89

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10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. [Signature]
For the Executive Director

9/12/2008
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Harris County Water Control and Improvement District No. 89. I am authorized to agree to the attached Agreed Order on behalf of Harris County Water Control and Improvement District No. 89, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Harris County Water Control and Improvement District No. 89 waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Sharyn Smalls
Signature

7/1/08
Date

Sharyn Smalls
Name (Printed or typed)

President
Title

Authorized Representative of
Harris County Water Control and Improvement District No. 89

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.

