

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0523-MWD-E **TCEQ ID:** RN102837028 **CASE NO.:** 35647

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

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Kendall County WCID 1, located northeast and adjacent to the intersection of Interstate Highway 10 and Farm-to-Market Road 473, east of Comfort, Kendall County</p> <p>TYPE OF OPERATION: Municipal wastewater facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Keith Marquart, General Manager, Kendall County Water Control and Improvement District No. 1, P.O. Box 745, Comfort, Texas 78013 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2008-0523-MWD-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 20, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 14, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for dissolved oxygen, total residual chlorine, and total phosphorous [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010414001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].</p>	<p>Total Assessed: \$6,960</p> <p>Total Deferred: \$1,392 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,568</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>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010414001, 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 include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0010414001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

DATES	Assigned	17-Mar-2008	Screening	31-Mar-2008	EPA Due	
	PCW	31-Mar-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kendall County Water Control and Improvement District No. 1
Reg. Ent. Ref. No.	RN102837028
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35647	No. of Violations	1
Docket No.	2008-0523-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lauren Smitherman
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	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	132% Enhancement	Subtotals 2, 3, & 7	\$3,960
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Notes
The penalty is enhanced due to 21 self-reported monthly effluent violations, one NOV with same or similar violations, one NOV with unrelated violations, and one 1660 agreed enforcement order.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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.

Total EB Amounts	\$642	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$10,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,960
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$6,960

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,960
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DEFERRAL	20% Reduction	Adjustment	-\$1,392
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,568
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Screening Date 31-Mar-2008

Docket No. 2008-0523-MWD-E

PCW

Respondent Kendall County Water Control and Improvement District I

Policy Revision 2 (September 2002)

Case ID No. 35647

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102837028

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

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>	22	110%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 132%

>> **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 due to 21 self-reported monthly effluent violations, one NOV with same or similar violations, one NOV with unrelated violations, and one 1660 agreed enforcement order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 132%

Screening Date 31-Mar-2008	Docket No. 2008-0523-MWD-E	PCW
Respondent Kendall County Water Control and Improvement District No. 1	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35647	<i>PCW Revision February 29, 2008</i>	
Reg. Ent. Reference No. RN102837028		
Media [Statute] Water Quality		
Enf. Coordinator Lauren Smitherman		

Violation Number	1		
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010414001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6		
Violation Description	Failed to comply with the permitted effluent limitations, as shown in the attached violation table.		
Base Penalty			\$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

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

\$1,000

Violation Events

Number of Violation Events <input type="text" value="3"/>	<input type="text" value="123"/>	Number of violation days
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<i>mark only one with an x</i>	daily	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	

Violation Base Penalty

Three quarterly events are recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$642"/>	Violation Final Penalty Total <input type="text" value="\$6,960"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,960"/>	

Economic Benefit Worksheet

Respondent Kendall County Water Control and Improvement District No. 1
Case ID No. 35647
Reg. Ent. Reference No. RN102837028
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	1-Apr-2007	1-Mar-2008	0.9	\$31	\$612	\$642
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 costs to perform an engineering survey to determine the cause of non-compliance. The date required is the first month of non-compliance. The final date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	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

\$10,000

TOTAL

\$642

Compliance History

Customer/Respondent/Owner-Operator: CN601180854 Kendall County Water Control and Improvement District No. 1 Classification: AVERAGE Rating: 2.39

Regulated Entity: RN102837028 KENDALL COUNTY WCID 1 Classification: AVERAGE Site Rating: 1.77

ID Number(s):
 WASTEWATER EPA ID TX0116742
 WASTEWATER PERMIT WQ0010414001
 WASTEWATER PERMIT TPDES0116742
 WASTEWATER PERMIT TX0116742
 WASTEWATER LICENSING LICENSE WQ0010414001

Location: NE AND ADJ TO THE INTX OF IH 10 W AND FM 473, E OF COMFORT IN KENDALL CO, TEXAS Rating Date: September 01 07
Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: March 26, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 26, 2003 to March 26, 2008

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

Name: Lauren Smitherman Phone: 512-239-5223

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 Effective Date: 11/03/2006 ADMINORDER 2006-0518-MWD-E
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: Mon and Reporting Req's 1 and 2 PERMIT
 Description: Failed to comply with permitted effluent limitations as detailed in the effluent chart.

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 | 05/31/2003 | (325803) |
| 2 | 06/11/2003 | (325798) |
| 3 | 06/11/2003 | (325800) |
| 4 | 06/11/2003 | (325801) |
| 5 | 08/06/2003 | (119407) |
| 6 | 10/08/2003 | (325805) |
| 7 | 10/08/2003 | (325806) |
| 8 | 10/08/2003 | (325807) |
| 9 | 01/30/2004 | (325811) |
| 10 | 04/23/2004 | (366135) |
| 11 | 04/30/2004 | (325797) |
| 12 | 04/30/2004 | (325799) |
| 13 | 05/04/2004 | (325810) |
| 14 | 05/04/2004 | (325808) |
| 15 | 05/04/2004 | (325809) |
| 16 | 06/15/2004 | (325802) |
| 17 | 06/15/2004 | (325804) |
| 18 | 07/28/2004 | (366136) |
| 19 | 09/03/2004 | (366137) |
| 20 | 09/20/2004 | (366138) |
| 21 | 11/18/2004 | (389565) |
| 22 | 11/29/2004 | (389566) |
| 23 | 01/03/2005 | (389567) |
| 24 | 02/07/2005 | (447240) |
| 25 | 03/10/2005 | (447238) |

26 03/10/2005 (447237)
 27 04/28/2005 (447239)
 28 10/07/2005 (491662)
 29 10/07/2005 (491663)
 30 10/07/2005 (491664)
 31 10/07/2005 (491665)
 32 10/07/2005 (491661)
 33 01/10/2006 (491666)
 34 01/10/2006 (491667)
 35 01/10/2006 (491668)
 36 01/10/2006 (491669)
 37 04/10/2006 (505874)
 38 04/10/2006 (505875)
 39 04/10/2006 (505876)
 40 04/24/2006 (456434)
 41 05/31/2006 (480238)
 42 06/22/2006 (505877)
 43 06/22/2006 (505878)
 44 09/25/2006 (528122)
 45 09/25/2006 (528123)
 46 09/25/2006 (528124)
 47 10/11/2006 (551632)
 48 12/29/2006 (535504)
 49 01/18/2007 (588718)
 50 01/18/2007 (588719)
 51 01/18/2007 (588720)
 52 02/20/2007 (588713)
 53 03/23/2007 (588714)
 54 04/23/2007 (588715)
 55 05/22/2007 (588716)
 56 06/20/2007 (588717)
 57 07/17/2007 (605563)
 58 08/20/2007 (605564)
 59 08/31/2007 (573676)
 60 10/01/2007 (630426)
 61 10/24/2007 (630427)
 62 11/08/2007 (630428)
 63 11/12/2007 (599669)
 64 03/14/2008 (636150)

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

Date	03/31/2003	(325800)		
Self Report?	YES		Classification	Moderate
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	04/30/2003	(325801)		
Self Report?	YES		Classification	Moderate
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	05/31/2003	(325803)		
Self Report?	YES		Classification	Moderate
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	06/30/2003	(325805)		
Self Report?	YES		Classification	Moderate
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	03/31/2004	(366135)		
Self Report?	YES		Classification	Moderate
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	04/30/2004	(325802)		
Self Report?	YES		Classification	Moderate
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 06/30/2004 (366136)
Self Report? YES Classification Moderate
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 07/31/2004 (366137)
Self Report? YES Classification Moderate
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 08/31/2004 (366138)
Self Report? YES Classification Moderate
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 09/30/2004 (389565)
Self Report? YES Classification Moderate
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 10/31/2004 (389566)
Self Report? YES Classification Moderate
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 11/30/2004 (389567)
Self Report? YES Classification Moderate
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 12/31/2004 (447240)
Self Report? YES Classification Moderate
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 03/31/2005 (447239)
Self Report? YES Classification Moderate
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 08/31/2005 (491665)
Self Report? YES Classification Moderate
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 05/31/2006 (505878)
Self Report? YES Classification Moderate
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 05/31/2006 (480238)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)

Description: Failure to use EPA approved test for DO and pH analyses.
Date 02/28/2007 (588714)
Self Report? YES Classification Moderate
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 04/30/2007 (588716)
Self Report? YES Classification Moderate
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	(605564)		
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/27/2007	(573676)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to maintain compliance with the permitted effluent limits for total residual chlorine.			
Date	08/31/2007	(630426)		
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2007	(630428)		
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KENDALL COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 1
RN102837028**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0523-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 Kendall County Water Control and Improvement District No. 1 ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a municipal wastewater facility located northeast and adjacent to the intersection of Interstate Highway 10 and Farm-to-Market Road 473, east of Comfort, in Kendall County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 19, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount Six Thousand Nine Hundred Sixty Dollars (\$6,960) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Five Hundred Sixty-Eight Dollars (\$5,568) of the administrative penalty and One Thousand Three Hundred Ninety-Two Dollars (\$1,392) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
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 Respondent 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 Respondent 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 Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010414001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, as documented during a record review conducted on February 20, 2008 and shown in the following violation table:

EFFLUENT VIOLATION TABLE				
	DO Monthly Min.	Total Residual Chlorine Monthly Max. Conc.	Total Phosphorous Avg. Loading	Total Phosphorous Daily Avg. Conc.
Months	Limit = 4.0 mg/L	Limit = 2.8 mg/L	Limit = 2.9 mg/L	Limit = 1.0 mg/L
4/30/2007	c	4.0	c	c
7/31/2007	c	c	4.34	2.6
8/31/2007	3.78	c	c	c
10/31/2007	c	c	4.65	2.9
DO = dissolved oxygen conc. = concentration c = compliant max. = maximum			avg. = average mg/L = milligrams per liter min. = minimum	

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Kendall County Water Control and Improvement District No. 1, Docket No. 2008-0523-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. It is further ordered that the Respondent shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010414001, 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 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 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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. 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.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Kendall County Water Control and Improvement District No. 1
 DOCKET NO. 2008-0523-MWD-F
 Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 For the Commission

John Soder
 For the Executive Director

10/10/2008
 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 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.

Keith Marquart
 Signature

May 28, 2008
 Date

Keith Marquart
 Name (Printed or typed)
 Authorized Representative of
 Kendall County Water Control and Improvement District No. 1

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.

