

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1298-MWD-E **TCEQ ID:** RN103040846 **CASE NO.:** 34424  
**RESPONDENT NAME:** Harris County Municipal Utility District No. 189

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Harris County Municipal Utility District 189 Wastewater Treatment Plant, located at 1100 Dunson Glen, approximately 1,300 feet north of the point where Kuykendahl Road crosses Harris County Flood Control Ditch P-145-03-00 and approximately 2,400 feet north-northwest of the intersection of Kuykendahl Road and Ella Boulevard, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 10, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Derwood Cone, President, Harris County Municipal Utility District No. 189, 1301 McKinney Street, Suite 5100, Houston, Texas 77010  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 2, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 16, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limits for ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), TPDES Permit No. WQ0012237001, Interim I Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$2,040</p> <p><b>Total Deferred:</b> \$408  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,632</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent replaced the air header and became compliant with the permitted effluent limits during January 2007.</p>



# Penalty Calculation Worksheet (PCW)

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	23-Jul-2007	<b>Screening</b>	11-Aug-2007	<b>EPA Due</b>	5-Sep-2007
	<b>PCW</b>	13-Aug-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Harris County Municipal Utility District No. 189
<b>Reg. Ent. Ref. No.</b>	RN103040846
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34424	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1298-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Deana Holland
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 1
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> <b>\$2,000</b>

<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	<b>27% Enhancement</b> <b>Subtotals 2, 3, &amp; 7</b> <b>\$540</b>

**Notes** A 27% enhancement is recommended for having five NOV's for self-reported effluent violations and one NOV without same or similar violations within the last five years.

<b>Culpability</b>	<b>No</b>	<b>0% Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	<b>25% Reduction</b>	<b>Subtotal 5</b>	<b>\$500</b>
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	<b>Before NOV</b>	<b>NOV to EDPRP/Settlement Offer</b>
<b>Extraordinary</b>		
<b>Ordinary</b>	X	
<b>N/A</b>		(mark with x)

**Notes** The Respondent came into compliance during January 2007.

	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
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<b>Total EB Amounts</b>	\$11,286	<b>*Capped at the Total EB \$ Amount</b>
<b>Approx. Cost of Compliance</b>	\$214,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$2,040</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

<b>Final Penalty Amount</b>	<b>\$2,040</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$2,040</b>
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<b>DEFERRAL</b>	<b>20% Reduction</b>	<b>Adjustment</b>	<b>-\$408</b>
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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.

<b>PAYABLE PENALTY</b>	<b>\$1,632</b>
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Screening Date 11-Aug-2007

Docket No. 2007-1298-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 189

Policy Revision 2 (September 2002)

Case ID No. 34424

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN103040846

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

### 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)	5	25%
	Other written NOVs	1	2%
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%
<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) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 27% enhancement is recommended for having five NOVs for self-reported effluent violations and one NOV without same or similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 11-Aug-2007

Docket No. 2007-1298-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 189

Policy Revision 2 (September 2002)

Case ID No. 34424

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN103040846

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a), TPDES Permit No. WQ0012237001, Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on July 2, 2007. See attached effluent violation table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH<sub>3</sub>-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. 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

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="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two quarterly events are recommended.

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 Municipal Utility District No. 189  
**Case ID No.:** 34424  
**Reg. Ent. Reference No.:** RN103040846  
**Media:** Water Quality  
**Violation No.:** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment	\$214,000	1-Apr-2006	1-Jan-2007	0.8	\$537	\$10,749	\$11,286
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

Cost of replacing the air header to eliminate effluent violations. Date required is the beginning of the effluent noncompliances and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$214,000

**TOTAL**

\$11,286

**Effluent Violation Table**  
Harris County Municipal Utility District No. 189  
TPDES Permit No. WQ0012237001  
Docket No. 2007-1298-MWD-E

Permitted Effluent Limits	Monitoring Period End Date			
	04/30/2006	06/30/2006	11/30/2006	12/31/2006
Ammonia Nitrogen Daily Average Loading 20 lbs/day	c	30.46	28.33	32.73
Ammonia Nitrogen Daily Average Concentration 3 mg/l	3.01	5.81	6.21	6.59
Ammonia Nitrogen Daily Maximum 10 mg/l	c	c	c	12.80

mg/l = milligrams per liter	lbs/day = pounds per day
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# Compliance History

Customer/Respondent/Owner-Operator:	CN600740245	Harris County Municipal Utility District No. 189	Classification: AVERAGE	Rating: 0.15
Regulated Entity:	RN103040846	HARRIS COUNTY MUD NO. 189 WWTP	Classification: AVERAGE	Site Rating: 0.15
ID Number(s):	WASTEWATER	PERMIT		WQ0012237001
	WASTEWATER	EPA ID		TX0083712
	WASTEWATER	PERMIT		WQ0012237001
	WASTEWATER	PERMIT		TPDES0083712
	WASTEWATER	PERMIT		TX0083712
	WASTEWATER LICENSING	LICENSE		WQ0012237001
Location:	Located at 1100 Dunson Glen, approximately 1,300 feet north of the point where Kuykendahl Road crosses Harris County Flood Control Ditch P-145-03-00 and approximately 2,400 feet north-northwest of the intersection of Kuykendahl Road and Ella Boulevard in Harris County, Texas.			Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	August 11, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 11, 2002 to August 11, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Deana Holland		Phone:	239-2504

## 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  | 08/19/2002 | (206735) |
| 2  | 09/26/2002 | (206738) |
| 3  | 10/29/2002 | (206741) |
| 4  | 11/26/2002 | (206745) |
| 5  | 12/30/2002 | (206749) |
| 6  | 01/23/2003 | (206753) |
| 7  | 02/26/2003 | (206713) |
| 8  | 03/25/2003 | (206716) |
| 9  | 04/25/2003 | (206721) |
| 10 | 04/25/2003 | (29037)  |
| 11 | 05/27/2003 | (206725) |
| 12 | 06/24/2003 | (206729) |
| 13 | 07/25/2003 | (316040) |
| 14 | 09/02/2003 | (316042) |

15 10/24/2003 (316044)  
 16 10/24/2003 (316046)  
 17 11/25/2003 (316047)  
 18 01/08/2004 (316048)  
 19 02/12/2004 (316050)  
 20 03/02/2004 (316032)  
 21 03/22/2004 (316034)  
 22 04/29/2004 (316035)  
 23 06/01/2004 (316037)  
 24 07/26/2004 (360704)  
 25 07/29/2004 (360705)  
 26 09/03/2004 (360706)  
 27 10/08/2004 (360707)  
 28 10/25/2004 (360708)  
 29 12/13/2004 (386707)  
 30 01/10/2005 (386708)  
 31 02/18/2005 (386709)  
 32 03/14/2005 (386706)  
 33 04/18/2005 (445269)  
 34 04/21/2005 (376680)  
 35 05/06/2005 (445270)  
 36 05/09/2005 (380575)  
 37 06/17/2005 (445271)  
 38 07/19/2005 (445272)  
 39 08/04/2005 (445273)  
 40 09/19/2005 (445274)  
 41 10/24/2005 (476529)  
 42 11/15/2005 (476530)  
 43 12/28/2005 (476531)  
 44 01/19/2006 (476532)  
 45 03/03/2006 (476533)  
 46 03/21/2006 (476528)  
 47 05/02/2006 (503531)  
 48 06/21/2006 (503532)  
 49 06/23/2006 (503533)  
 50 09/29/2006 (525889)  
 51 09/29/2006 (525890)  
 52 07/16/2007 (566430)

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

Date: 09/30/2004 (360708)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/21/2005 (376680)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)  
 30 TAC Chapter 317 317.7(i)

Description: Failure to maintain the RPZ backflow prevention device in an acceptable condition.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.6(b)(3)[G]

Description: Failure to prevent an excessive accumulation of solids in the chlorine contact chamber.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to maintain the composite sampler at the required temperature of 4 degrees centigrade.

Date: 04/30/2006

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (525890)

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: 11/30/2006

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: 12/31/2006

Self Report? YES

Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

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  
HARRIS COUNTY MUNICIPAL  
UTILITY DISTRICT NO. 189  
RN103040846**

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

**AGREED ORDER  
DOCKET NO. 2007-1298-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 Harris County Municipal Utility District No. 189 ("the District") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the District appear before the Commission and together stipulate that:

1. The District owns and operates a wastewater treatment plant located at 1100 Dunson Glen, approximately 1,300 feet north of the point where Kuykendahl Road crosses Harris County Flood Control Ditch P-145-03-00 and approximately 2,400 feet north-northwest of the intersection of Kuykendahl Road and Ella Boulevard in Harris County, Texas (the "Facility").
2. The District has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the District agree that the Commission has jurisdiction to enter this Agreed Order, and that the District is subject to the Commission's jurisdiction.
4. The District received notice of the violations alleged in Section II ("Allegations") on or about July 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the District of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Two Thousand Forty Dollars (\$2,040) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The District has paid One Thousand Six Hundred Thirty-Two Dollars (\$1,632) of the administrative penalty and Four Hundred Eight Dollars (\$408) is deferred contingent upon the District'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 District fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the District 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 District have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the District replaced the air header and became compliant with the permitted effluent limits during January 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the District has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the District is alleged to have failed to comply with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System Permit No. WQ0012237001, Interim I Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 2, 2007, and as shown in the following table:



Effluent Violation Table				
Permitted Effluent Limits	Monitoring Period End Date			
	04/30/06	06/30/06	11/30/06	12/31/06
Ammonia Nitrogen Daily Average Loading 20 lbs/day	c	30.46	28.33	32.73
Ammonia Nitrogen Daily Average Concentration 3 mg/l	3.01	5.81	6.21	6.59
Ammonia Nitrogen Daily Maximum 10 mg/l	c	c	c	12.80

mg/l = milligrams per liter	lbs/day = pounds per day
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### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the District pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the District'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: Harris County Municipal Utility District No. 189, Docket No. 2007-1298-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 provisions of this Agreed Order shall apply to and be binding upon the District. The District is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the operations referenced in this Agreed Order.



3. This Agreed Order, issued by the Commission, shall not be admissible against the District 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the District, or three days after the date on which the Commission mails notice of the Order to the District, 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

John S. Sullivan  
For the Executive Director

12/28/2007  
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.

Dermot Cone  
Signature

October 1, 2007  
Date

Dermot Cone  
Name (Printed or typed)  
Authorized Representative of  
Harris County Municipal Utility District No. 189

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.

