

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1556-MWD-E **TCEQ ID:** RN101720837 **CASE NO.:** 34696

**RESPONDENT NAME:** Harmony Independent School District

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Harmony ISD, located approximately 100 feet north of State Highway 154 on the southwest corner of the Harmony Independent School District campus, 3.9 miles west of the intersection of State Highway 154 and Farm-to-Market Road 1795, and approximately eight miles west of Gilmer, Upshur County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment system</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 January 28, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Jed Whitaker, Superintendent, Harmony Independent School District, 9788 State Highway 154 West, Big Sandy, Texas 75755  <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> August 16, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 17, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine records review investigation. One violation was documented.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limitations for total suspended solids. Specifically, the total suspended solids ("TSS") daily average concentrations for June 2006, February 2007, and March 2007 were 22.5 milligrams per liter ("mg/L"), 28.75 mg/L, and 30.5 mg/L, respectively, compared to the permitted limit of 20 mg/L [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013050001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$4,560</p> <p><b>Total Deferred:</b> \$912  <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> \$3,648</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 the Respondent replaced electrical switches and relays and encased the aeration pipe joints in concrete to achieve compliance with permitted effluent limitations by April 30, 2007.</p>

Additional ID No(s): WQ0013050001; TX0097233



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

<b>DATES</b>	Assigned	24-Sep-2007	Screening	26-Sep-2007	EPA Due	
	PCW	26-Sep-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Harmony Independent School District		
Reg. Ent. Ref. No.	RN101720837		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34696	No. of Violations	1	
Docket No.	2007-1556-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Andrew Hunt	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1*

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 77% Enhancement *Subtotals 2, 3, & 7*

Notes: The penalty is enhanced because the Respondent has one 1660 order, one NOV with violations that are not same or similar to those cited in this action, and self-reported 11 months of effluent violations.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 25% Reduction *Subtotal 5*

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

Notes: The Respondent achieved compliance during April 2007.

**0% Enhancement\*** *Subtotal 6*

Total EB Amounts	\$84	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,323	

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

*Final Penalty Amount*

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty*

**DEFERRAL** 20% Reduction Adjustment

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**

Screening Date 26-Sep-2007

Docket No. 2007-1556-MWD-E

PCW

Respondent Harmony Independent School District

Policy Revision 2 (September 2002)

Case ID No. 34696

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101720837

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

### 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)	11	55%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 77%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced because the Respondent has one 1660 order, one NOV with violations that are not same or similar to those cited in this action, and self-reported 11 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 77%

<b>Screening Date</b>	26-Sep-2007	<b>Docket No.</b>	2007-1556-MWD-E	<b>PCW</b>
<b>Respondent</b>	Harmony Independent School District			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	34696			<i>PCW Revision September 19, 2007</i>
<b>Reg. Ent. Reference No.</b>	RN101720837			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Andrew Hunt			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013050001, Effluent Limitations and Monitoring Requirements No. 1			
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations, as documented during a record review conducted on August 16, 2007. Specifically, the total suspended solids ("TSS") daily average concentrations for June 2006, February 2007, and March 2007 were 22.5 mg/L, 28.75 mg/L, and 30.5 mg/L, respectively, compared to the permitted limit of 20 mg/L.			

**Base Penalty**

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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 as a result of the violation.

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	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**

Three 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:** Harmony Independent School District  
**Case ID No.:** 34696  
**Reg. Ent. Reference No.:** RN101720837  
**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	\$1,323	1-Jun-2006	30-Apr-2007	0.9	\$4	\$80	\$84
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 to replace switches, electrical relays, and to encase aeration pipe joints in concrete. Date required is the first month of noncompliance. Final date is the 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:**

<b>Approx. Cost of Compliance</b>	\$1,323	<b>TOTAL</b>	\$84
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# Compliance History

Customer/Respondent/Owner-Operator: CN600923197 HARMONY INDEPENDENT SCHOOL DISTRICT Classification: AVERAGE Rating:1.31

Regulated Entity: RN101720837 HARMONY ISD Classification: AVERAGE Site Rating: 1.31

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2300029  
 WASTEWATER PERMIT WQ0013050001  
 WASTEWATER PERMIT TPDES0097233  
 WASTEWATER PERMIT TX0097233  
 WATER LICENSING LICENSE 2300029  
 WASTEWATER LICENSING LICENSE WQ0013050001  
 PETROLEUM STORAGE TANK REGISTRATION 32283

Location: Located approximately 100 feet north of State Highway 154 on the southwest corner of the Harmony Independent School District campus, 3.9 miles west of the intersection of State Highway 154 and Farm-to-Market Road 1795, and approximately 8 miles west of Gilmer in Upshur County, Texas.

Rating Date: September 01 07 Repeat Violator:NO

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: September 25, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 25, 2002 to September 25, 2007

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

Name: Andrew Hunt Phone: 512-239-1203

## 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.

Effective Date: 05/28/2006 ADMINORDER 2005-0191-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: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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 09/26/2002  | (217742) |
| 2 11/20/2002  | (217748) |
| 3 11/25/2002  | (217744) |
| 4 01/14/2003  | (21373)  |
| 5 01/21/2003  | (217755) |
| 6 02/03/2003  | (217751) |
| 7 02/18/2003  | (217719) |
| 8 04/02/2003  | (217722) |
| 9 04/24/2003  | (217727) |
| 10 06/27/2003 | (62099)  |
| 11 09/12/2003 | (320496) |
| 12 09/12/2003 | (320497) |
| 13 09/12/2003 | (320498) |
| 14 02/17/2004 | (320501) |
| 15 02/17/2004 | (320502) |

16 02/17/2004	(320503)
17 02/17/2004	(320504)
18 03/08/2004	(320492)
19 03/25/2004	(320493)
20 04/19/2004	(320494)
21 05/20/2004	(362977)
22 06/22/2004	(320495)
23 06/22/2004	(320499)
24 06/29/2004	(362978)
25 07/22/2004	(362979)
26 10/15/2004	(362980)
27 11/15/2004	(388001)
28 12/20/2004	(388002)
29 12/21/2004	(343120)
30 01/13/2005	(388004)
31 02/14/2005	(388000)
32 03/15/2005	(373559)
33 03/16/2005	(388003)
34 04/26/2005	(425624)
35 05/10/2005	(425623)
36 05/23/2005	(425625)
37 07/06/2005	(425626)
38 07/18/2005	(446158)
39 08/12/2005	(446159)
40 09/12/2005	(446160)
41 10/10/2005	(478428)
42 10/25/2005	(431018)
43 11/10/2005	(478430)
44 12/19/2005	(478431)
45 01/13/2006	(478432)
46 02/21/2006	(478426)
47 03/24/2006	(478427)
48 04/20/2006	(504630)
49 05/18/2006	(504631)
50 07/03/2006	(526941)
51 07/24/2006	(526942)
52 08/11/2006	(526943)
53 08/25/2006	(509667)
54 09/21/2006	(526944)
55 11/21/2006	(531462)
56 09/17/2007	(572470)

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

Date: 02/28/2003	(217722)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 03/31/2003	(217727)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 04/30/2003	(320495)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 05/31/2003	(320496)		
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: 06/30/2003	(62099)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)		
Description:	Failure to provide scales for determining the amount of disinfectant used daily, as well as the amount of disinfectant remaining for use.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(v)		

Description: Failure to install all water system electrical wiring in a securely mounted conduit in compliance with a local or national electrical code.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(2)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine as per agency regulations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]

Description: Failure to properly maintain an intruder resistant fence. The fence must be in good condition and close enough to surface grade to prevent intruder passage.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to initiate a maintenance program to improve the general appearance of all regulated entities and reduce costly repairs due to a lack of proper maintenance. This program should include the storage

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(iv)

Description: two or more service pumps with a combined capacity of at least three times the maximum daily demand.

Date: 08/31/2003 (320499)

Self Report? YES Classification: Moderate

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

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

Date: 11/30/2003 (320503)

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: 12/31/2003 (320504)

Self Report? YES Classification: Moderate

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

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

Date: 02/28/2006 (478427)

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 (526942)

Self Report? YES Classification: Moderate

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

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

Date: 02/28/2007 (572470)

Self Report? YES Classification: Minor

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

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

Date: 03/31/2007 (572470)

Self Report? YES

Classification: Minor

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  
HARMONY INDEPENDENT SCHOOL  
DISTRICT  
RN101720837

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-1556-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 Harmony Independent School District ("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 domestic wastewater treatment system located approximately 100 feet north of State Highway 154 on the southwest corner of the Harmony Independent School District campus, 3.9 miles west of the intersection of State Highway 154 and Farm-to-Market Road 1795, and approximately eight miles west of Gilmer in Upshur 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 September 22, 2007.
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 of Four Thousand Five Hundred Sixty Dollars (\$4,560) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Six Hundred Forty-Eight Dollars (\$3,648) of the administrative penalty and Nine Hundred Twelve Dollars (\$912) 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 recognizes the Respondent replaced electrical switches and relays and encased the aeration pipe joints in concrete to achieve compliance with permitted effluent limitations by April 30, 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 Respondent 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 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. WQ0013050001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 16, 2007. Specifically, the total suspended solids ("TSS") daily average concentrations for June 2006, February 2007, and March 2007 were 22.5 milligrams per liter (mg/L), 28.75 mg/L, and 30.5 mg/L, respectively, compared to the permitted limit of 20 mg/L.



### 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: Harmony Independent School District, Docket No. 2007-1556-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 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.
3. 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.
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 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.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdien  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 1/11/08

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.

Jed Whitaker  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 11-26-07

Jed Whitaker  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Harmony Independent School District

\_\_\_\_\_  
Title Superintendent

**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.

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Fifth line of handwritten text, providing further details or context.

Sixth line of handwritten text, possibly a signature or a closing phrase.

Seventh line of handwritten text, likely a date or a final note.

Eighth line of handwritten text, possibly a footer or a reference.

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