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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1387-MWD-E TCEQ ID: RN101611366 CASE NO.: 34534**  
**RESPONDENT NAME: Military Highway Water Supply Corporation**

<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"/> IMMEDIATE 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> MHWSC PROGRESO WWTP, approximately 2.5 miles northeast of the intersection of Farm-to-Market Road 1015 and US Highway 281, Hidalgo County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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 February 25, 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> Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2134; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Amado E. Salinas Jr., General Manager, Military Highway Water Supply Corporation, P.O. Box 250, Progreso, Texas 78579  <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 13, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 30, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failed to comply with the permit effluent limits for total suspended solids and biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013462001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$6,000</p> <p><b>Total Deferred:</b> \$1,200  <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> \$4,800</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>Ordering Provisions:</b></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. WQ0013462001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0013462001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

<b>DATES</b>	<b>Assigned</b>	6-Aug-2007	<b>Screening</b>	23-Aug-2007	<b>EPA Due</b>	
	<b>PCW</b>	1-Oct-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Military Highway Water Supply Corporation		
<b>Reg. Ent. Ref. No.</b>	RN101611366		
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34534	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1387-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Suzanne Walrath
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

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

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

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

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

**Notes**

**Culpability**   Enhancement **Subtotal 4**

**Notes**

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

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

**Notes**

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

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

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

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

**Notes**

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **adjustment**

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

**Notes**

**PAYABLE PENALTY**

**Screening Date** 23-Aug-2007

**Docket No.** 2007-1387-MWD-E

**PCW**

**Respondent** Military Highway Water Supply Corporation

Policy Revision 2 (September 2002)

**Case ID No.** 34534

PCW Revision May 25, 2007

**Reg. Ent. Reference No.** RN101611366

**Media [Statute]** Water Quality

**Enf. Coordinator** Suzanne Walrath

### 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> )	17	85%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 110%

>> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

**Compliance History Notes**

The Respondent has 17 Notices of Violation for self-reported effluent data, and was issued one findings order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 110%

<b>Screening Date</b> 23-Aug-2007	<b>Docket No.</b> 2007-1387-MWD-E	<b>PCW</b>
<b>Respondent</b> Military Highway Water Supply Corporation	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 34534	<small>PCW Revision May 25, 2007</small>	
<b>Reg. Ent. Reference No.</b> RN101611366		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Suzanne Walrath		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0013462001, Effluent Limitations and Monitoring Requirements No. 1	
<b>Violation Description</b>	Failed to comply with the permitted effluent limits as documented during a record review conducted on July 13, 2007. See attached table.	
<b>Base Penalty</b>		\$10,000

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	<b>Actual</b>				x
<b>Potential</b>				<b>Percent</b> 10%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0%

**Matrix Notes**  
 A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, and Total Suspended Solids values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**Adjustment** \$9,000

\$1,000

Violation Events

Number of Violation Events        Number of violation days

<small>mark only one with an x</small>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$3,000

Three quarterly events are recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$522"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$6,000"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$6,000"/>	

## Economic Benefit Worksheet

**Respondent** Military Highway Water Supply Corporation  
**Case ID No.** 34534  
**Reg. Ent. Reference No.** RN101611366  
**Media** Water Quality  
**Violation No.** 1

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

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$5,000	1-May-2006	1-Jun-2008	2.1	\$522	n/a	\$522
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:** The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the expected compliance date.

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:**

<b>Approx. Cost of Compliance</b>	\$5,000	<b>TOTAL</b>	\$522
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**MILITARY HIGHWAY WATER SUPPLY CORPORATION**  
**RN101611366**  
**DOCKET NO. 2007-1387-MWD-E**

<b>Month</b>	<b>Total Suspended Solids Daily Avg. Permit Limit = 90 mg/L</b>	<b>Biochemical Oxygen Demand Daily Avg. Permit Limit = 30 mg/L</b>
May 2006	108	C
June 2006	91	C
July 2006	94	C
November 2006	101.6	31.4
January 2007	99.2	30.6
February 2007	98	C
March 2007	100	C
<b>C = compliant</b> <b>mg/L = milligrams per liter</b>		



# Compliance History

Customer/Respondent/Owner-Operator: CN600666390 Military Highway Water Supply Corporation Classification: AVERAGE Rating: 5.66

Regulated Entity: RN101611366 MHWSC PROGRESO WWTP Classification: AVERAGE Site Rating: 1.67

ID Number(s):  
WASTEWATER PERMIT WQ0013462001  
WASTEWATER PERMIT TPDES0104612  
WASTEWATER PERMIT TX0104612  
WASTEWATER PERMIT TX0099368000  
WASTEWATER EPA ID TPDES0104612  
WASTEWATER LICENSING LICENSE WQ0013462001

Location: approximately 2.5 miles northeast of the intersection of Farm-to-Market Road 1015 and U. S. Highway 281 in Hidalgo County, Texas Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: August 23, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 23, 2002 to August 23, 2007

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

Name: Suzanne Walrath Phone: 512/239-2134

## 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: 08/07/2003 ADMINORDER 2002-1336-MWD-E  
Classification: Moderate

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

Rqmt Prov: FELMR 1 Pg 2 PERMIT  
Description: Failure to maintain a BOD5 Daily Average of no more than 30 mg/l.

- 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	09/09/2002	(223240)
2	10/10/2002	(223243)
3	11/15/2002	(223246)
4	12/13/2002	(223249)
5	01/17/2003	(223252)
6	02/13/2003	(223220)
7	03/14/2003	(322706)
8	04/10/2003	(223225)
9	05/16/2003	(322709)
10	06/16/2003	(322710)

11	07/17/2003	(322711)
12	08/07/2003	(143039)
13	08/11/2003	(322712)
14	09/11/2003	(322713)
15	10/13/2003	(322714)
16	11/18/2003	(322715)
17	12/15/2003	(322716)
18	01/16/2004	(322717)
19	02/17/2004	(322705)
20	03/15/2004	(322707)
21	04/16/2004	(322708)
22	05/18/2004	(364287)
23	06/15/2004	(364288)
24	07/13/2004	(364289)
25	08/06/2004	(364290)
26	09/16/2004	(364291)
27	10/14/2004	(364292)
28	11/10/2004	(388671)
29	12/15/2004	(388672)
30	01/18/2005	(388673)
31	01/19/2005	(343617)
32	02/14/2005	(388669)
33	03/11/2005	(388670)
34	04/18/2005	(426229)
35	05/16/2005	(426230)
36	06/13/2005	(426231)
37	07/14/2005	(446599)
38	08/05/2005	(446600)
39	09/13/2005	(446601)
40	10/14/2005	(479377)
41	11/16/2005	(479378)
42	12/14/2005	(479379)
43	01/06/2006	(450670)
44	01/17/2006	(479380)
45	02/16/2006	(479376)
46	04/14/2006	(505134)
47	05/12/2006	(505135)
48	06/15/2006	(505136)
49	07/12/2006	(527434)
50	08/14/2006	(527433)
51	08/14/2006	(527435)
52	09/15/2006	(527436)
53	07/31/2007	(567654)

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

Date	03/31/2003	(223225)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2004	(322705)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2004	(322708)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2004	(388672)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26.121(a)[G]			

Description: Failure to meet the limit for one or more permit parameter  
 Date 01/31/2005 (388669)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date 04/30/2005 (426230)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 09/30/2005 (479377)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2005 (479378)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 12/31/2005 (479380)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 01/31/2006 (479376)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 05/31/2006 (505136)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 06/30/2006 (527434)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 07/31/2006  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 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 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 01/31/2007  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
 Date: 02/28/2007

Self Report? YES Classification: Moderate

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

TWC Chapter 26.121(a)[G]

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

Date: 03/31/2007

Self Report? YES Classification: Moderate

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

TWC Chapter 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  
MILITARY HIGHWAY WATER  
SUPPLY CORPORATION  
RN101611366

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY  
§

AGREED ORDER  
DOCKET NO. 2007-1387-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 Military Highway Water Supply Corporation ("Military Highway") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Military Highway, appear before the Commission and together stipulate that:

1. Military Highway owns and operates a wastewater treatment plant located approximately 2.5 miles northeast of the intersection of Farm-to-Market Road 1015 and US Highway 281 in Progresso, Hidalgo County, Texas (the "Facility").
2. Military Highway has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Military Highway agree that the Commission has jurisdiction to enter this Agreed Order, and that Military Highway is subject to the Commission's jurisdiction.
4. Military Highway received notice of the violations alleged in Section II ("Allegations") on or about August 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Military Highway of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Dollars (\$6,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Military



Highway has paid Four Thousand Eight Hundred Dollars (\$4,800) of the administrative penalty and One Thousand Two Hundred Dollars (\$1,200) is deferred contingent upon Military Highway'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 Military Highway fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Military Highway 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 Military Highway 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 Military Highway 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, Military Highway is alleged to have failed to comply with the permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13462001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 13, 2007. See table below.

Month	Total Suspended Solids Daily Avg. Permit Limit = 90 mg/L	Biochemical Oxygen Demand Daily Avg. Permit Limit = 30 mg/L
May 2006	108	C
June 2006	91	C
July 2006	94	C
November 2006	101.6	31.4
January 2007	99.2	30.6
February 2007	98	C
March 2007	100	C
<b>C = compliant</b> <b>mg/L = milligrams per liter</b>		



### III. DENIALS

Military Highway generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Military Highway pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Military Highway'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: Military Highway Water Supply Corporation, Docket No. 2007-1387-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 within 60 days after the effective date of this Agreed Order, Military Highway shall submit written certification of compliance with the effluent limits of TPDES Permit No. 13462001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen, Texas 78550-5247



3. The provisions of this Agreed Order shall apply to and be binding upon Military Highway. Military Highway 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 Military Highway 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, Military Highway's failure to comply is not a violation of this Agreed Order. Military Highway shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Military Highway shall notify the Executive Director within seven days after Military Highway 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 Military Highway shall be made in writing to the Executive Director. Extensions are not effective until Military Highway 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 Military Highway 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 Military Highway, or three days after the date on which the Commission mails notice of the Order to Military Highway, 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 Szdlie  
For the Executive Director

2/7/2008  
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.

Amado E Salinas Jr  
Signature

12/10/07  
Date

AMADO E. SALINAS JR.  
Name (Printed or typed)  
Authorized Representative of  
Military Highway Water Supply Corporation

GEN. 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.

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