

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0411-MWD-E **TCEQ ID:** RN102342391 **CASE NO.:** 35504

RESPONDENT NAME: Fort Bend County Municipal Utility District No. 130

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

SITE WHERE VIOLATION(S) OCCURRED: Fort Bend County MUD 130 WWTP, located approximately 700 feet southwest of Buffalo Bayou and 10,200 feet southeast of the intersection of Interstate Highway 10 and Farm-to-Market Road 1463, Fort Bend County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on July 21, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Daniel Smith, President, Board of Directors, Fort Bend County Municipal Utility District No. 130, 3200 Southwest Freeway Suite 2600, Houston, Texas 77027

Respondent's Attorney: Not represented by counsel on this enforcement matter

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 5, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 12, 2008 (NOE)</p> <p>Background Facts: This was a routine records review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for dissolved oxygen, total suspended solids, and ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>	<p>Total Assessed: \$4,170</p> <p>Total Deferred: \$834 <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: \$3,336</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by November 1, 2007, the Respondent repaired the auto dialer and blowers and by November 30, 2007, achieved compliance with the permitted effluent limits of TPDES Permit No. WQ0014011001.</p>

Additional ID No(s): WQ0014011001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

DATES	Assigned	19-Feb-2008	Screening	3-Mar-2008	EPA Due	
	PCW	3-Mar-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Fort Bend County Municipal Utility District No. 130		
Reg. Ent. Ref. No.	RN102342391		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35504	No. of Violations	1
Docket No.	2008-0411-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

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

Notes

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 3-Mar-2008

Docket No. 2008-0411-MWD-E

PCW

Respondent Fort Bend County Municipal Utility District No. 130

Policy Revision 2 (September 2002)

Case ID No. 35504

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102342391

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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)	12	60%
	Other written NOVs	2	4%
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) 64%

>> **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 self-reported 12 months of effluent quality violations, and was issued two Notices of Violations for violations considered not to be same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 64%

Screening Date 3-Mar-2008	Docket No. 2008-0411-MWD-E	PCW
Respondent Fort Bend County Municipal Utility District No. 130	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 35504	<small>PCW Revision January 29, 2008</small>	
Reg. Ent. Reference No. RN102342391		
Media [Statute] Water Quality		
Enf. Coordinator Heather Brister		
Violation Number <input type="text" value="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. WQ0014011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6.	
Violation Description	Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on February 5, 2008, and as shown in the attached table.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

A simplified model was used to evaluate the ammonia nitrogen daily average concentration to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen and total suspended solids were also considered. As a result of these discharges, human health or the environment have been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events <input type="text" value="3"/>	<input type="text" value="153"/>	Number of violation days												
mark only one with an x <table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	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 <input type="text" value="\$3,000"/>	
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"/>													

Three quarterly events are recommended.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount <input type="text" value="\$270"/>	Violation Final Penalty Total <input type="text" value="\$4,170"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$4,170"/>	

Economic Benefit Worksheet

Respondent Fort Bend County Municipal Utility District No. 130
Case ID No. 35504
Reg. Ent. Reference No. RN102342391
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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Nov-2006	30-Nov-2007	1.1	\$270	n/a	\$270

Notes for DELAYED costs

Estimated cost to repair the blowers and the auto dialer. Date Required is the first month of noncompliance and 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

\$5,000

TOTAL

\$270

Effluent Limit Violation Table table rev.

Respondent Fort Bend County Municipal Utility District No. 130
ID Number(s) WQ0014011001
Docket Number 2008-0411-MWD-E
Enf. Coordinator Heather Brister

Corresponds to Violation Number: 1

<i>EFFLUENT PARAMETER</i>					
<i>Permit Limit</i>					
	Dissolved Oxygen Minimum 6.0 Milligrams per Liter	Total Suspended Solids Daily Average 15 Milligrams per Liter	Total Suspended Solids Single Grab 60 Milligrams per Liter	Total Ammonia Nitrogen Daily Average 2 Milligrams per Liter	Total Ammonia Nitrogen Single Grab 15 Milligrams per Liter
<i>Month/Year</i>					
Nov-06	c	20.10	67.00	c	c
May-07	c	c	c	2.90	c
Jun-07	c	c	c	2.29	c
Aug-07	5.60	c	c	c	c
Oct-07	c	c	c	4.68	26.30

c = compliant

Compliance History

Customer/Respondent/Owner-Operator: CN601652936 Fort Bend County Municipal Utility District No. 130
 Regulated Entity: RN102342391 FORT BEND COUNTY MUD 130 WWTP

Classification: AVERAGE Rating: 0.45
 Classification: AVERAGE Site Rating: 0.45

ID Number(s):	WASTEWATER	PERMIT	WQ0014011001
	WASTEWATER	PERMIT	TPDES0118109
	WASTEWATER	PERMIT	TX0118109
	WASTEWATER	PERMIT	14011001

Location: Located approximately 700 feet southwest of Buffalo Bayou and 10,200 feet southeast of the intersection of Interstate Highway 10 and Farm-to-Market Road 1463 in Fort Bend County, Texas. Rating Date: September 01 07
 Repeat Violator: No

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: February 22, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: February 22, 2003 to February 22, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: (254) 761-3048

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 | 03/24/2003 | (232396) |
| 2 | 04/22/2003 | (232398) |
| 3 | 05/22/2003 | (326601) |
| 4 | 06/23/2003 | (326602) |
| 5 | 07/21/2003 | (326603) |
| 6 | 08/22/2003 | (326604) |
| 7 | 09/22/2003 | (326605) |
| 8 | 10/23/2003 | (326606) |
| 9 | 11/20/2003 | (326607) |
| 10 | 12/29/2003 | (326608) |
| 11 | 01/23/2004 | (326609) |
| 12 | 02/23/2004 | (326599) |
| 13 | 03/19/2004 | (260390) |
| 14 | 03/22/2004 | (326600) |
| 15 | 04/26/2004 | (366605) |
| 16 | 05/24/2004 | (366606) |
| 17 | 06/24/2004 | (366607) |
| 18 | 07/22/2004 | (366608) |
| 19 | 08/30/2004 | (366609) |
| 20 | 09/24/2004 | (366610) |
| 21 | 10/17/2004 | (366611) |
| 22 | 11/22/2004 | (342045) |
| 23 | 11/29/2004 | (389816) |
| 24 | 12/21/2004 | (366612) |
| 25 | 01/24/2005 | (389817) |

26 02/22/2005 (389815)
 27 04/22/2005 (427343)
 28 05/23/2005 (427344)
 29 06/24/2005 (427345)
 30 07/25/2005 (427346)
 31 08/24/2005 (447420)
 32 09/28/2005 (447421)
 33 10/24/2005 (492173)
 34 12/07/2005 (492174)
 35 12/27/2005 (492175)
 36 01/27/2006 (492176)
 37 02/23/2006 (492171)
 38 03/22/2006 (492172)
 39 04/21/2006 (506131)
 40 05/17/2006 (506132)
 41 06/16/2006 (506133)
 42 07/18/2006 (506134)
 43 08/17/2006 (528375)
 44 09/14/2006 (528376)
 45 09/25/2006 (489729)
 46 10/16/2006 (528377)
 47 11/18/2006 (631017)
 48 12/18/2006 (631019)
 49 01/18/2007 (631021)
 50 02/17/2007 (631008)
 51 03/14/2007 (631009)
 52 04/18/2007 (631010)
 53 05/15/2007 (631011)
 54 06/18/2007 (631012)
 55 07/17/2007 (631013)
 56 08/21/2007 (631014)
 57 09/18/2007 (631015)
 58 10/18/2007 (631016)
 59 11/20/2007 (631018)
 60 12/14/2007 (631020)
 61 01/14/2008 (631022)
 62 02/04/2008 (615392)
 63 02/15/2008 (617301)

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

Date: **05/31/2003** (326602)
 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** (326603)
 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: **03/19/2004** (260390)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to properly operate and maintain the chlorine contact basin.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to properly operate and maintain the chlorination system.

Date: **04/30/2004** (366606)
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: **05/31/2005** (427345)
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** (447421)
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: **12/31/2005** (492176)
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: **10/31/2006** (631017)
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: **11/30/2006** (631019)
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: **05/31/2007** (631012)
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: **06/30/2007** (631013)
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: **08/31/2007** (631015)
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** (631018)

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: **02/01/2008** (615392)

Self Report? NO

Classification: Moderate

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

Description: Failure to ensure flow measurement accuracy.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(7)

Description: Failure to provide stairway access to the chlorine contact basin.

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
FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 130
RN102342391

§
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§
§
§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0411-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 Fort Bend County Municipal Utility District No. 130 ("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 wastewater treatment facility located approximately 700 feet southwest of Buffalo Bayou and 10,200 feet southeast of the intersection of Interstate Highway 10 and Farm-to-Market Road 1463 in Fort Bend 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 February 17, 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 of Four Thousand One Hundred Seventy Dollars (\$4,170) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The Respondent has paid Three Thousand Three Hundred Thirty-Six Dollars (\$3,336) of the administrative penalty and Eight Hundred Thirty-Four Dollars (\$834) 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 that by November 1, 2007, the Respondent repaired the auto dialer and blowers and, by November 30, 2007, achieved compliance with the permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014011001.
 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 and operator of the Facility, the Respondent is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0014011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented by a TCEQ record review conducted on February 5, 2008, and as shown in the following table:

EFFLUENT PARAMETER					
Permit Limit					
Month/Year	Dissolved Oxygen Minimum 6.0 Milligrams per Liter	Total Suspended Solids Daily Average 15 Milligrams per Liter	Total Suspended Solids Single Grab 60 Milligrams per Liter	Total Ammonia Nitrogen Daily Average 2 Milligrams per Liter	Total Ammonia Nitrogen Single Grab 15 Milligrams per Liter
Nov-06	c	20.10	67.00	c	c
May-07	c	c	c	2.90	c
Jun-07	c	c	c	2.29	c
Aug-07	5.60	c	c	c	c
Oct-07	c	c	c	4.68	26.30

c = compliant

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: Fort Bend County Municipal Utility District No. 130, Docket No. 2008-0411-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

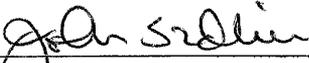
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, 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



For the Executive Director

6/30/2008
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.



Signature

4/17/2008
Date

Daniel Smith

Name (Printed or typed)
Authorized Representative of
Fort Bend County Municipal Utility District No. 130

President, Board of Directors

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.

