

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0410-MWD-E **TCEQ ID:** RN101919801 **CASE NO.:** 35535

RESPONDENT NAME: Medina County Water Control and Improvement District No. 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Medina County WCID 002, located on the west side of Nester Lane approximately 2,000 feet south of the intersection of Nester Lane and South Street, D'Hanis, Medina County</p> <p>TYPE OF OPERATION: Wastewater treatment system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 23, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. J. Dean Zinsmeyer, President, Medina County Water Control and Improvement District No. 2, P.O. Box 337, D'Hanis, Texas 78850 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

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 12, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 29, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations for ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011144001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to timely submit the annual sludge report for the monitoring period ending July 31, 2007 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0011144001, Sludge Reporting Requirements].</p>	<p>Total Assessed: \$1,265</p> <p>Total Deferred: \$253 <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: \$1,012</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 the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) On November 12, 2007, introduced 12,000 gallons of activated sludge into the Facility;</p> <p>b) By December 31, 2007, achieved compliance with permitted effluent limits; and</p> <p>c) On March 13, 2008, submitted the 2007 annual sludge report.</p>

Additional ID No(s): WQ0011144001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

DATES	Assigned	10-Mar-2008
	PCW	11-Mar-2008
	Screening	11-Mar-2008
	EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Medina County Water Control and Improvement District No. 2
Reg. Ent. Ref. No.	RN101919801
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35535	No. of Violations	2
Docket No.	2008-0410-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Andrew Hunt
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 **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

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

Notes

Total EB Amounts **Subtotal 6**
Approx. Cost of Compliance **0% Enhancement***
**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 **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 11-Mar-2008

Docket No. 2008-0410-MWD-E

PCW

Respondent Medina County Water Control and Improvement District I

Policy Revision 2 (September 2002)

Case ID No. 35535

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101919801

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 (<i>number of NOVs meeting criteria</i>)	5	25%
	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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 25%

>> **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

An enhancement is recommended due to five self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 11-Mar-2008	Docket No. 2008-0410-MWD-E	PCW			
Respondent Medina County Water Control and Improvement District No. 2	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 35535	<small>PCW Revision February 29, 2008</small>				
Reg. Ent. Reference No. RN101919801					
Media [Statute] Water Quality					
Enf. Coordinator Andrew Hunt					
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. WQ0011144001, Effluent Limitations and Monitoring Requirements No. 1				
Violation Description	Failed to comply with the permitted effluent limitations, as shown in the attached violation 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 total ammonia nitrogen concentration to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.				
		Adjustment	<input type="text" value="\$9,000"/>		
		<input type="text" value="\$1,000"/>			
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="92"/>	Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>			Violation Base Penalty
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
One quarterly event is recommended.					
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$35"/>	Violation Final Penalty Total		<input type="text" value="\$1,150"/>
This violation Final Assessed Penalty (adjusted for limits)					<input type="text" value="\$1,150"/>

Economic Benefit Worksheet

Respondent Medina County Water Control and Improvement District No. 2
Case ID No. 35535
Reg. Ent. Reference No. RN101919801
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,200	1-Aug-2007	31-Dec-2007	0.4	\$2	\$33	\$35
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

Estimated cost to transport and introduce 12,000 gallons of activated sludge into the system. Date Required is first month of non-compliance. 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

\$1,200

TOTAL

\$35

Screening Date 11-Mar-2008	Docket No. 2008-0410-MWD-E	PCW
Respondent Medina County Water Control and Improvement District No. 2	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35535	<i>PCW Revision February 29, 2008</i>	
Reg. Ent. Reference No. RN101919801		
Media [Statute] Water Quality		
Enf. Coordinator Andrew Hunt		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0011144001, Sludge Reporting Requirements	
Violation Description	Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2007.	
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 type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$4"/>	Violation Final Penalty Total <input type="text" value="\$115"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$115"/>	

Economic Benefit Worksheet

Respondent Medina County Water Control and Improvement District No. 2
Case ID No. 35535
Reg. Ent. Reference No. RN101919801
Media Water Quality
Violation No. 2

Percent Interest:	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	1-Sep-2007	13-Mar-2008	0.5	\$0	\$4	\$4
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

Estimated cost to prepare and submit the annual sludge report. Date required is the date the report was due. Final date is the date the report was submitted.

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

\$100

TOTAL

\$4

EFFLUENT VIOLATION TABLE
Medina County WCID No. 2
TPDES Permit No. WQ0011144001
Docket No. 2008-0410-MWD-E

Months	NH ₃ -N Daily ave. conc.	NH ₃ -N Daily ave. loading	NH ₃ -N Single grab max. conc.
	Limit = 5.0 mg/L	Limit = 3.3 lbs/day	Limit = 15 mg/L
8/31/2007	6.8	c	17.8
9/30/2007	14.8	4.32	18.5
10/31/2007	22.2	5.37	22.9

NH₃-N = ammonia nitrogen

c = compliant

conc. = concentration

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per Liter

ave. = average

Compliance History

Customer/Respondent/Owner-Operator:	CN600685721 Medina County Water Control & Improvement District No. 2	Classification: AVERAGE	Rating: 0.21
Regulated Entity:	RN101919801 MEDINA CO WCID 002	Classification: AVERAGE	Site Rating: 0.21
ID Number(s):	WASTEWATER PERMIT		WQ0011144001
	WASTEWATER PERMIT		TPDES0075779
	WASTEWATER PERMIT		TX0075779
	WASTEWATER PERMIT		TPDE11144001
	WASTEWATER EPA ID		TPDES0075779
Location:	Located on the west side of Nester Lane approximately 2,000 feet south of the intersection of Nester Lane and South Street in D'Hanis, Medina County, Texas	Rating Date: 9/1/2007	Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO
 Date Compliance History Prepared: March 10, 2008

Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: March 10, 2003 to March 10, 2008

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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 | 03/13/2003 | (201891) |
| 2 | 04/10/2003 | (201895) |
| 3 | 05/12/2003 | (313877) |
| 4 | 06/10/2003 | (313878) |
| 5 | 07/11/2003 | (313879) |
| 6 | 08/25/2003 | (148106) |
| 7 | 08/28/2003 | (313880) |
| 8 | 09/15/2003 | (313881) |
| 9 | 09/22/2003 | (249173) |
| 10 | 10/13/2003 | (313882) |
| 11 | 11/10/2003 | (313883) |
| 12 | 12/08/2003 | (313884) |
| 13 | 01/13/2004 | (313885) |
| 14 | 02/10/2004 | (313874) |
| 15 | 03/08/2004 | (313875) |
| 16 | 04/12/2004 | (313876) |

17 05/12/2004 (359696)
 18 06/14/2004 (359697)
 19 07/09/2004 (359698)
 20 08/19/2004 (359699)
 21 09/09/2004 (359700)
 22 10/13/2004 (359701)
 23 11/15/2004 (386133)
 24 12/10/2004 (386134)
 25 01/12/2005 (386135)
 26 02/08/2005 (424033)
 27 03/10/2005 (386132)
 28 04/12/2005 (424034)
 29 05/11/2005 (424035)
 30 06/13/2005 (424036)
 31 07/11/2005 (444825)
 32 07/27/2005 (444826)
 33 09/19/2005 (444827)
 34 10/10/2005 (475693)
 35 11/15/2005 (475694)
 36 12/07/2005 (475695)
 37 01/11/2006 (475696)
 38 02/10/2006 (475691)
 39 03/14/2006 (475692)
 40 04/13/2006 (503047)
 41 05/11/2006 (503048)
 42 05/26/2006 (479603)
 43 06/13/2006 (503049)
 44 07/13/2006 (525388)
 45 08/24/2006 (525389)
 46 09/12/2006 (525390)
 47 10/11/2006 (550096)
 48 11/08/2006 (550097)
 49 12/13/2006 (550098)
 50 01/11/2007 (585076)
 51 02/09/2007 (585071)
 52 03/14/2007 (585072)
 53 04/11/2007 (585073)
 54 05/10/2007 (585074)
 55 06/12/2007 (585075)
 56 07/09/2007 (604463)
 57 08/13/2007 (604464)
 58 09/14/2007 (604465)
 59 11/12/2007 (623516)
 60 12/18/2007 (623517)
 61 03/03/2008 (618194)

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

Date: 08/25/2003 (148106)

Self Report? YES

Classification: Minor

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

Description: Self reported data indicates Permittee exceeded it's daily average NH3-N limit 4 consecutive months in 2002

Date: 08/31/2007 (604465)

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: 09/30/2007

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 (623516)

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: 11/30/2007 (623517)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MEDINA COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 2
RN101919801**

§
§
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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0410-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 Medina County Water Control and Improvement District No. 2 ("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 system located on the west side of Nester Lane approximately 2,000 feet south of the intersection of Nester Lane and South Street in D'Hanis, Medina County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 5, 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 One Thousand Two Hundred Sixty-Five Dollars (\$1,265) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Twelve Dollars (\$1,012) of the administrative penalty and Two Hundred Fifty-Three Dollars (\$253) 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 the Respondent has implemented the following corrective measures at the Facility:
 - a. On November 12, 2007, introduced 12,000 gallons of activated sludge into the Facility;
 - b. By December 31, 2007, achieved compliance with permitted effluent limits; and
 - c. On March 13, 2008, submitted the 2007 annual sludge report.
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:

1. 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. WQ0011144001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on February 12, 2008 and shown in the following effluent table:

EFFLUENT VIOLATION TABLE			
Months	NH ₃ -N Daily ave. conc.	NH ₃ -N Daily ave. loading	NH ₃ -N Single grab max. conc.
	Limit = 5.0 mg/L	Limit = 3.3 lbs/day	Limit = 15 mg/L
8/31/2007	6.8	c	17.8
9/30/2007	14.8	4.32	18.5
10/31/2007	22.2	5.37	22.9

NH₃-N = ammonia nitrogen

c = compliant

conc. = concentration

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per Liter

ave. = average

- Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0011144001, Sludge Reporting Requirements, as documented during a record review conducted on February 12, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

- 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: Medina County Water Control and Improvement District No. 2, Docket No. 2008-0410-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

- 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 S. ...
For the Executive Director

6/18/08
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.

J. Dean Zinsmeyer
Signature

4-17-08
Date

J. Dean Zinsmeyer
Name (Printed or typed)
Authorized Representative of
Medina County Water Control and Improvement District No. 2

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.
