

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-0227-MWD-E **TCEQ ID:** RN103016218 **CASE NO.:** 35355
RESPONDENT NAME: Harris County

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: Alexander Deussen Park WWTP, located in Harris County Alexander Deussen Park, in the approximate middle of the park, south of Lake Houston, Harris County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment facility</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 July 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Ed Emmett, County Judge, Harris County, Harris County Courthouse, 1001 Preston Avenue, Suite 911, Houston, Texas 77002 Mr. Ed Edwards, Construction Superintendent, Harris County Precinct One, 7901 El Rio Street, Houston, Texas 77054 Respondent's Attorney: Ms. Snehal Patel, Senior Assistant County Attorney, Environmental Section, Harris County Attorney's Office, 1019 Congress, 15th Floor, Houston, Texas 77002</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 15, 2007</p> <p>Date of NOV/NOE Relating to this Case: January 7, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to timely submit the annual sludge reports for monitoring periods ending July 31 for 2005, 2006, and 2007 by September 1 of each corresponding year [30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12213001, Sludge Provisions].</p> <p>2) Failure to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal. Specifically, the investigator observed that the clarifier contained a four-foot sludge blanket and the chlorine contact chamber contained approximately 10 inches of sludge [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. 12213001, Operational Requirements No. 1].</p> <p>3) Failure to test the backflow prevention device on the potable water line to the Facility on an annual basis. Specifically, the backflow prevention device had not been tested within the year prior to the investigation [30 TEX. ADMIN. CODE § 317.4(a)(8)].</p> <p>4) Failure to maintain records of monitoring information related to the Facility's sewage sludge use and disposal activities [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No.</p>	<p>Total Assessed: \$6,490</p> <p>Total Deferred: \$1,298 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,192</p> <p>Total Paid (Due) to General Revenue: \$0</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 completed the following corrective measures at the Facility:</p> <p>a. On January 15, 2008, calibrated the flow meter;</p> <p>b. On February 4, 2008, tested the backflow prevention device on the potable water line to the Facility;</p> <p>c. On February 8, 2008, submitted the annual sludge reports for the monitoring periods ending July 31 for 2005, 2006, and 2007;</p> <p>d. On February 12, 2008, removed and properly disposed of 6,400 gallons of sludge from the clarifier and chlorine contact chamber;</p> <p>e. On February 15, 2008, replaced the 60 degree v-notch weir with a 22.5 degree v-notch weir; and</p> <p>f. By February 18, 2008, began maintaining appropriate records, updated the Facility's operational guidance, and conducted employee training to ensure that records of monitoring information related to the Facility's sewage sludge use and disposal activities are maintained and to ensure that QA/QC analysis is conducted at the proper frequency for total chlorine residual measurements.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

<p>12213001, Monitoring and Reporting Requirements No. 3.b].</p> <p>5) Failure to calibrate the flow meter on an annual basis. Specifically, the flow meter had not been calibrated within the year prior to the investigation [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 12213001, Monitoring and Reporting Requirements No. 5].</p> <p>6) Failure to conduct Quality Assurance/Quality Control ("QA/QC") analysis to assure the quality of all measurements. Specifically, records were not available to demonstrate that standards or duplicate analyses for total chlorine residual were being conducted each day [30 TEX. ADMIN. CODE §§ 319.6 and 319.7(a)].</p> <p>7) Failure to install a properly sized v-notch weir. Specifically, the 60 degree v-notch weir installed at the Facility can accurately measure a minimum flow of 0.0167 million gallons per day ("MGD"). Based on the reported daily average flow at the Facility, a smaller-sized weir is required to accurately measure minimum flows [30 TEX. ADMIN. CODE § 319.11(d)].</p>		
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Additional ID No(s): MWD/12213-001/CO

Attachment A
Docket Number: 2008-0227-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Harris County
Payable Penalty Amount: Five Thousand One Hundred Ninety-Two Dollars (\$5,192)
SEP Amount: Five Thousand One Hundred Ninety-Two Dollars (\$5,192)
Type of SEP: Pre-approved
Third-Party Recipient: Galveston Bay Foundation-“Marsh Mania”
Location of SEP: Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Galveston Bay Foundation “Marsh Mania” in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Galveston Bay Foundation and the Texas Commission on Environmental Quality*. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. **Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Mr. Bob Stokes, President
Galveston Bay Foundation
17234-A Highway 3
Wester, Texas 77598

3. **Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES	Assigned	14-Jan-2008	Screening	5-Feb-2008	EPA Due	
	PCW	4-Mar-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Harris County		
Reg. Ent. Ref. No.	RN103016218		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35355	No. of Violations	7
Docket No.	2008-0227-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
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	\$5,800
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	15% Enhancement	Subtotals 2, 3, & 7	\$870
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Notes The penalty is enhanced due to three NOV's with violations same or similar to those cited in this action.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	10% Reduction	Subtotal 5	\$580
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent achieved compliance on February 18, 2008.

Total EB Amounts	\$517	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$3,188	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,090
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OTHER FACTORS AS JUSTICE MAY REQUIRE	7%	Adjustment	\$400
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommend enhancement to capture avoided costs associated with the violations.

Final Penalty Amount	\$6,490
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,490
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DEFERRAL	20%	Reduction	Adjustment	-\$1,298
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,192
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Screening Date 5-Feb-2008	Docket No. 2008-0227-MWD-E	PCW
Respondent Harris County		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 35355		<small>PCW Revision January 29, 2008</small>
Reg. Ent. Reference No. RN103016218		
Media [Statute] Water Quality		
Enf. Coordinator Lynley Doyen		

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>	3	15%
	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%
<small>Please Enter Yes or No</small>			
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) 15%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced due to three NOVs with violations same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

Screening Date 5-Feb-2008 **Docket No.** 2008-0227-MWD-E **PCW**
Respondent Harris County *Policy Revision 2 (September 2002)*
Case ID No. 35355 *PCW Revision January 29, 2008*
Reg. Ent. Reference No. RN103016218
Media [Statute] Water Quality
Enf. Coordinator Lynley Doyen

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12213001, Sludge Provisions
Violation Description Failed to timely submit the annual sludge reports for monitoring periods ending July 31 for 2005, 2006, and 2007 by September 1 of each corresponding year.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

At least 70% of the rule requirement was met.

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

Three single events (one event per report) are recommended.

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

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Harris County
Case ID No. 35355
Reg. Ent. Reference No. RN103016218
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
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$300	1-Sep-2005	8-Feb-2008	2.4	\$37	n/a	\$37

Notes for DELAYED costs

Estimated cost to prepare and submit the annual sludge reports. Date required is the date the first report was due. Final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$300

TOTAL \$37

Screening Date 5-Feb-2008	Docket No. 2008-0227-MWD-E	PCW
Respondent Harris County		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 35355		<small>PCW Revision January 29, 2008</small>
Reg. Ent. Reference No. RN103016218		
Media [Statute] Water Quality		
Enf. Coordinator Lynley Doyen		
Violation Number 2		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. 12213001, Operational Requirements No. 1	
Violation Description	Failed to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal, as documented during the investigation conducted on November 15, 2007. Specifically, the investigator observed that the clarifier contained a four-foot sludge blanket and the chlorine contact chamber contained approximately 10 inches of sludge.	
	Base Penalty	\$10,000

>> **Environmental, Property and Human Health Matrix**

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
Potential			x	Percent 5%	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events Number of violation days

	daily				
	monthly				
mark only one with an x	quarterly				Violation Base Penalty \$500
	semiannual				
	annual				
	single event	x			

One single event is recommended based on documentation of the violation during the November 15, 2007 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$9"/>	Violation Final Penalty Total <input type="text" value="\$559"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$559"/>	

Economic Benefit Worksheet

Respondent Harris County
Case ID No. 35355
Reg. Ent. Reference No. RN103016218
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$500	15-Nov-2007	12-Feb-2008	0.2	\$0	\$8	\$9
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 remove and properly dispose of the excess sludge in the clarifier and the chlorine contact chamber. Date required is the investigation date. 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

\$500

TOTAL

\$9

Screening Date	5-Feb-2008	Docket No.	2008-0227-MWD-E	PCW
Respondent	Harris County			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35355			<i>PCW Revision January 29, 2008</i>
Reg. Ent. Reference No.	RN103016218			
Media [Statute]	Water Quality			
Enf. Coordinator	Lynley Doyen			
Violation Number	3			

Rule Cite(s) 30 Tex. Admin. Code § 317.4(a)(8)

Violation Description Failed to test the backflow prevention device on the potable water line to the Facility on an annual basis. Specifically, the backflow prevention device had not been tested within the year prior to the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential	x			25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$2,500

One annual event is recommended.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent **Harris County**
 Case ID No. **35355**
 Reg. Ent. Reference No. **RN103016218**
 Media **Water Quality**
 Violation No. **3**

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$200	15-Nov-2006	14-Nov-2007	1.9	\$19	\$200	\$219
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost that was avoided by failing to test the backflow prevention device calculated for the year prior to the investigation date.

Approx. Cost of Compliance \$200

TOTAL \$219

Screening Date	5-Feb-2008	Docket No.	2008-0227-MWD-E	PCW
Respondent	Harris County	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	35355	<i>PCW Revision January 29, 2008</i>		
Reg. Ent. Reference No.	RN103016218			
Media [Statute]	Water Quality			
Enf. Coordinator	Lynley Doyen			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12213001, Monitoring and Reporting Requirements No. 3.b			
Violation Description	Failed to maintain records of monitoring information related to the Facility's sewage sludge use and disposal activities.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential				0%	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		x			
100% of the permit requirement was not met.					
Adjustment					\$9,000

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>	

Violation Base Penalty

One single event is recommended based on documentation of the violation during the November 15, 2007 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$1,119"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,119"/>	

Economic Benefit Worksheet

Respondent: Harris County
 Case ID No: 35355
 Reg. Ent. Reference No: RN103016218
 Media: Water Quality
 Violation No: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	15-Nov-2007	18-Feb-2008	0.3	\$1	n/a	\$1
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 develop a record keeping system to document the Facility's sludge use and disposal activities.
 Date required is the investigation date. 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 \$100

TOTAL \$1

Screening Date 5-Feb-2008	Docket No. 2008-0227-MWD-E	PCW
Respondent Harris County		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35355		<i>PCW Revision January 29, 2008</i>
Reg. Ent. Reference No. RN103016218		
Media [Statute] Water Quality		
Enf. Coordinator Lynley Doyen		

Violation Number	5
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12213001, Monitoring and Reporting Requirements No. 5
Violation Description	Failed to calibrate the flow meter on an annual basis. Specifically, the flow meter had not been calibrated within the year prior to the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential			x	5%	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes
Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events	1	Number of violation days	61
<i>mark only one with an x</i>	daily		Violation Base Penalty
	monthly		
	quarterly		
	semiannual		
	annual		
single event	x	\$500	

One single event is recommended based on documentation of the violation during the November 15, 2007 investigation.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$219 **Violation Final Penalty Total** \$559

This violation Final Assessed Penalty (adjusted for limits) \$559

Economic Benefit Worksheet

Respondent **Harris County**
 Case ID No. **35355**
 Reg. Ent. Reference No. **RN103016218**
 Media **Water Quality**
 Violation No. **5**

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$200	15-Nov-2006	14-Nov-2007	1.9	\$19	\$200	\$219
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost that was avoided by failing to calibrate the flow meter calculated for the year prior to the investigation date.

Approx. Cost of Compliance

\$200

TOTAL

\$219

Screening Date	5-Feb-2008	Docket No.	2008-0227-MWD-E	PCW
Respondent	Harris County	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	35355	<i>PCW Revision January 29, 2008</i>		
Reg. Ent. Reference No.	RN103016218			
Media [Statute]	Water Quality			
Enf. Coordinator	Lynley Doyen			
Violation Number	6			
Rule Cite(s)	30 Tex. Admin. Code §§ 319.6 and 319.7(a)			
Violation Description	Failed to conduct Quality Assurance/Quality Control ("QA/QC") analysis to assure the quality of all measurements. Specifically, records were not available to demonstrate that standards or duplicate analyses for total chlorine residual were being conducted each day.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
Potential			x	5%	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes: Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment: \$9,500

\$500

Violation Events

Number of Violation Events: 1 82 Number of violation days

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

Violation Base Penalty: \$500

One single event is recommended based on documentation of the violation during the November 15, 2007 investigation.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount: \$3 Violation Final Penalty Total: \$559

This violation Final Assessed Penalty (adjusted for limits): \$559

Economic Benefit Worksheet

Respondent **Harris County**
 Case ID No. **35355**
 Reg. Ent. Reference No. **RN103016218**
 Media **Water Quality**
 Violation No. **6**

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	\$250	15-Nov-2007	18-Feb-2008	0.3	\$3	n/a	\$3
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 conduct training to ensure that all quality assurance measures are properly conducted. Date required is the investigation date. 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

\$250

TOTAL

\$3

Screening Date 5-Feb-2008	Docket No. 2008-0227-MWD-E	PCW
Respondent Harris County		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 35355		<small>PCW Revision January 29, 2008</small>
Reg. Ent. Reference No. RN103016218		
Media [Statute] Water Quality		
Enf. Coordinator Lynley Doyen		
Violation Number <input type="text" value="7"/>		
Rule Cite(s)	30 Tex. Admin. Code § 319.11(d)	
Violation Description	Failed to install a properly sized v-notch weir. Specifically, the 60 degree v-notch weir installed at the Facility can accurately measure a minimum flow of 0.0167 million gallons per day ("MGD"). Based on the reported daily average flow at the Facility, a smaller-sized weir is required to accurately measure minimum flows.	
	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"/>	x	Percent	<input type="text" value="5%"/>

>> Programmatic Matrix

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

Matrix Notes
Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment

Violation Events

	<input type="text" value="1"/>	<input type="text" value="82"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$500"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	

One single event is recommended based on documentation of the violation during the November 15, 2007 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$29"/>	Violation Final Penalty Total <input type="text" value="\$559"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$559"/>	

Economic Benefit Worksheet

Respondent: Harris County
 Case ID No. 35355
 Reg. Ent. Reference No. RN103016218
 Media: Water Quality
 Violation No. 7

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	\$1,638	15-Nov-2007	15-Feb-2008	0.3	\$1	\$28	\$29
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Cost to install a properly sized weir at the Facility. Date required is the investigation date. 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

\$1,638

TOTAL

\$29

Compliance History

Customer/Respondent/Owner-Operator:	CN602680423	Harris County	Classification: AVERAGE	Rating: 2.76
Regulated Entity:	RN103016218	ALEXANDER DEUSSEN PARK WWTP	Classification: AVERAGE	Site Rating: 4.17
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT PERMIT PERMIT LICENSE		WQ0012213001 TPDES0083526 TX0083526 WQ0012213001
Location:	LOCATED IN THE HARRIS COUNTY ALEXANDER DEUSSEN PARK, IN THE APPROXIMATE MIDDLE OF THE PARK, S OF LAKE HOUSTON, HARRIS CO, TX			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	January 31, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 31, 2003 to January 31, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Lynley Doyen	Phone: 512-239-1364			

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 11/06/2003 (248896)
 2 01/12/2004 (259397)
 3 03/12/2004 (264631)
 4 02/09/2006 (440016)
 5 08/25/2006 (508795)
 6 01/07/2008 (609334)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 Date: 11/05/2003 (248896)

Self Report? NO	Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)	
Description: Failure to perform the analysis for manganese oxide, on a daily basis. In addition, chlorine standards or a duplicate chlorine analysis was not being performed each day.	
Self Report? NO	Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description: Failure to report the carbonaceous biochemical oxygen demand (CBOD) on the Discharge Monitoring Reports DMR. The biochemical oxygen demand (BOD) concentration was being reported on the DMRs instead of the CBOD. In addition, the loading was being calculated using a flow of 0.001 MGD instead of the actual flow.	
Self Report? NO	Classification: Moderate
Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)	
Description: Failure to provide a certified operator.	

Date: 01/12/2004 (259397)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
Description: Failure to perform the analysis for manganese oxide, on a daily basis. In addition, chlorine standards or a duplicate chlorine analysis was not being performed each day.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to report the carbonaceous biochemical oxygen demand (CBOD) on the Discharge Monitoring Reports (DMR). The biochemical oxygen demand (BOD) concentration was being reported on the DMRs instead of the CBOD. In addition, the loading was being calculated using a flow of 0.001 MGD instead of the actual flow.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)
Description: Failure to provide a certified operator.

Date: 02/08/2006 (440016)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permitted total chlorine effluent limits.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to report the correct daily average loading (lbs/day) for Carbonaceous Biochemical Oxygen Demand (CBOD), Total Suspended Solids (TSS), and ammonia-nitrogen (NH3-N) on the Discharge Monitoring Reports (DMRs).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)
Description: Failure to maintain the required sludge management records.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
Description: Failure to prevent the discharge of sewage related debris.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.6(b)(3)
Description: Failure to properly operate and maintain 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
HARRIS COUNTY
RN103016218

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§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0227-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Harris County ("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, represented by Snehal Patel of the Harris County Attorney's Office, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment facility located in Harris County Alexander Deussen Park, in the approximate middle of the park, south of Lake Houston in Harris County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 January 12, 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 Six Thousand Four Hundred Ninety Dollars (\$6,490) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Two Hundred Ninety-Eight Dollars (\$1,298) 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. Five Thousand One Hundred Ninety-Two Dollars (\$5,192) of the administrative penalty will be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
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 completed the following corrective measures at the Facility:
 - a. On January 15, 2008, calibrated the flow meter;
 - b. On February 4, 2008, tested the backflow prevention device on the potable water line to the Facility;
 - c. On February 8, 2008, submitted the annual sludge reports for the monitoring periods ending July 31 for 2005, 2006, and 2007;
 - d. On February 12, 2008, removed and properly disposed of 6,400 gallons of sludge from the clarifier and chlorine contact chamber;
 - e. On February 15, 2008, replaced the 60 degree v-notch weir with a 22.5 degree v-notch weir; and
 - f. By February 18, 2008, began maintaining appropriate records, updated the Facility's operational guidance, and conducted employee training to ensure that records of monitoring information related to the Facility's sewage sludge use and disposal activities are maintained and to ensure that Quality Assurance/Quality Control ("QA/QC") analysis is conducted at the proper frequency for total chlorine residual measurements.
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 timely submit the annual sludge reports for monitoring periods ending July 31 for 2005, 2006, and 2007 by September 1 of each corresponding year, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12213001, Sludge Provisions, as documented during an investigation conducted on November 15, 2007.
2. Failed to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. 12213001, Operational Requirements No. 1, as documented during an investigation conducted on November 15, 2007. Specifically, the investigator observed that the clarifier contained a four-foot sludge blanket and the chlorine contact chamber contained approximately 10 inches of sludge.
3. Failed to test the backflow prevention device on the potable water line to the Facility on an annual basis, in violation of 30 TEX. ADMIN. CODE § 317.4(a)(8), as documented during an investigation conducted on November 15, 2007. Specifically, the backflow prevention device had not been tested within the year prior to the investigation.
4. Failed to maintain records of monitoring information related to the Facility's sewage sludge use and disposal activities, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 12213001, Monitoring and Reporting Requirements No. 3.b, as documented during an investigation conducted on November 15, 2007.
5. Failed to calibrate the flow meter on an annual basis, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 12213001, Monitoring and Reporting Requirements No. 5, as documented during an investigation conducted on November 15, 2007. Specifically, the flow meter had not been calibrated within the year prior to the investigation.
6. Failed to conduct Quality Assurance/Quality Control ("QA/QC") analysis to assure the quality of all measurements, in violation of 30 TEX. ADMIN. CODE §§ 319.6 and 319.7(a), as documented during an investigation conducted on November 15, 2007. Specifically, records were not available to demonstrate that standards or duplicate analyses for total chlorine residual were being conducted each day.
7. Failed to install a properly sized v-notch weir, in violation of 30 TEX. ADMIN. CODE § 319.11(d), as documented during an investigation conducted on November 15, 2007. Specifically, the 60 degree v-notch weir installed at the Facility can accurately measure a minimum flow of 0.0167 million gallons per day ("MGD"). Based on the reported daily average flow at the Facility, a smaller-sized weir is required to accurately measure minimum flows.

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: Harris County, Docket No. 2008-0227-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand One Hundred Ninety-Two Dollars (\$5,192) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. 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.
4. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 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.
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 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. Sullivan
For the Executive Director

7/30/2008
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.

Ed Edwards
Signature

4-22-08
Date

Ed Edwards
Name (Printed or typed)
Authorized Representative of
Harris County

Construction Superintendent
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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Attachment A
Docket Number: 2008-0227-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Harris County
Payable Penalty Amount: Five Thousand One Hundred Ninety-Two Dollars (\$5,192)
SEP Amount: Five Thousand One Hundred Ninety-Two Dollars (\$5,192)
Type of SEP: Pre-approved
Third-Party Recipient: Galveston Bay Foundation-“Marsh Mania”
Location of SEP: Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Galveston Bay Foundation “Marsh Mania” in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Galveston Bay Foundation and the Texas Commission on Environmental Quality*. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Mr. Bob Stokes, President
Galveston Bay Foundation
17234-A Highway 3
Wester, Texas 77598

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

RECEIVED
APR 01 2008
Harris County Attorney