

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0861-MWD-E **TCEQ ID:** RN102844172 **CASE NO.:** 35940

**RESPONDENT NAME:** Clovercreek Municipal Utility District

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Clovercreek MUD, located approximately two miles south of Magnolia on Nichols-Sawmill Road (Magnolia-Waller Road), south of the intersection of County Place Road and Nichols-Sawmill Road, Montgomery County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 1, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Anthony V. Roubik, Board President, Clovercreek Municipal Utility District, 3 GreenWay Plaza Suite 2000, Houston, Texas 77046  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 1, 2008</p> <p><b>Date of NOE Relating to this Case:</b> May 8, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>Failure to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13115001 and is continuing to discharge wastewater from the Facility without authorization [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE §§ 305.125(2) and 305.65].</p>	<p><b>Total Assessed:</b> \$2,700</p> <p><b>Total Deferred:</b> \$540  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,160</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a) Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. 13115001;</p> <p>b) Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application;</p> <p>c) Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;</p> <p>d) Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision b.;</p> <p>e) Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and</p> <p>f) The certification shall include detailed supporting documentation including photographs, receipts, and/or other record to demonstrate compliance with Ordering Provision a., b., and e.</p>

Additional ID No(s): None



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

<b>DATES</b>	Assigned	12-May-2008	Screening	22-May-2008	EPA Due	
	PCW	23-May-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Clovercreek Municipal Utility District		
Reg. Ent. Ref. No.	RN102844172		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35940	No. of Violations	1
Docket No.	2008-0861-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Steve Villatoro
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	<b>\$3,000</b>
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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.

<b>Compliance History</b>	-10.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	<b>-\$300</b>
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Notes: A reduction is recommended based on high performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<i>Subtotal 4</i>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0.0% Reduction	<i>Subtotal 5</i>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

		0.0% Enhancement*	<i>Subtotal 6</i>	<b>\$0</b>
Total EB Amounts	\$216	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$5,000			

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	<b>\$2,700</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<i>Adjustment</i>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$2,700**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	<b>\$2,700</b>
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<b>DEFERRAL</b>	20.0% Reduction	<i>Adjustment</i>	<b>-\$540</b>
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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.

<b>PAYABLE PENALTY</b>	<b>\$2,160</b>
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Screening Date 22-May-2008

Docket No. 2008-0861-MWD-E

PCW

Respondent Clovercreek Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 35940

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN102844172

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

## Compliance History Worksheet

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

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

A reduction is recommended based on high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) -10%

<b>Screening Date</b> 22-May-2008	<b>Docket No.</b> 2008-0861-MWD-E	<b>PCW</b>
<b>Respondent</b> Clovercreek Municipal Utility District	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35940	<small>PCW Revision April 29, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN102844172		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Steve Villatoro		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code §§ 305.125(2) and 305.65	
<b>Violation Description</b>	Failed to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13115001 and is continuing to discharge wastewater from the Facility without authorization.	
<b>Base Penalty</b>		\$10,000

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

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input style="width:50px;" type="text" value="0%"/>

**>> Programmatic Matrix**

	<b>Falsification</b>				
	Major	Moderate	Minor		
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
	Matrix Notes	100% of rule requirement not met			<b>Percent</b> <input style="width:50px;" type="text" value="10%"/>

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

Three monthly events are recommended from the date the permit expired (March 1, 2008) to the date of screening (May 22, 2008).

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input style="width:150px;" type="text" value="\$216"/>	<b>Violation Final Penalty Total</b> <input style="width:100px;" type="text" value="\$2,700"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width:100px;" type="text" value="\$2,700"/>	

## Economic Benefit Worksheet

**Respondent:** Clovercreek Municipal Utility District  
**Case ID No.:** 35940  
**Reg. Ent. Reference No.:** RN102844172  
**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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**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	1-Mar-2008	11-Jan-2009	0.87	\$216	n/a	\$216
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of preparing and submitting a new permit application to obtain authorization to discharge wastewater. Date required is the date the previous permit expired and Final Date is date of expected compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	<b>TOTAL</b>	\$216
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# Compliance History

Customer/Respondent/Owner-Operator:	CN601364045	Clovercreek Municipal Utility District	Classification: HIGH	Rating: 0.06
Regulated Entity:	RN102844172	CLOVERCREEK MUD	Classification: HIGH	Site Rating: 0.06
ID Number(s):	WASTEWATER	PERMIT		WQ0013115001
	WASTEWATER	PERMIT		TPDES0097969
	WASTEWATER	PERMIT		TX0097969
	WASTEWATER	EPA ID		TX0097969
	WASTEWATER LICENSING	LICENSE		WQ0013115001
Location:	approximately 2 miles south of Magnolia on Nichols-Sawmill Road (Magnolia-Waller Road), south of the intersection of County Place Road and Nichols-Sawmill Road in Montgomery County, Texas			Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 21, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 01, 2003 to May 01, 2008

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

Name: Steve Villatoro Phone: 512-239-4930

## 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)?  | N/A        |
| 5. When did the change(s) in ownership occur?  | N/A        |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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	05/23/2003	(320611)
2	06/23/2003	(320613)
3	07/21/2003	(320614)
4	08/22/2003	(320615)
5	09/22/2003	(320616)
6	10/23/2003	(320617)
7	11/24/2003	(320618)
8	12/29/2003	(320619)
9	01/23/2004	(320620)
10	02/23/2004	(320608)
11	03/24/2004	(320609)
12	04/26/2004	(363020)
13	06/21/2004	(320612)
14	06/24/2004	(363021)
15	07/22/2004	(363022)
16	08/30/2004	(363023)

17	09/24/2004	(363024)
18	10/25/2004	(363025)
19	11/24/2004	(388039)
20	12/27/2004	(388040)
21	01/24/2005	(388041)
22	02/22/2005	(388038)
23	03/21/2005	(446177)
24	04/08/2005	(372646)
25	04/22/2005	(446178)
26	05/24/2005	(446179)
27	06/27/2005	(446180)
28	07/25/2005	(446181)
29	08/22/2005	(446182)
30	09/28/2005	(446183)
31	10/24/2005	(478484)
32	11/21/2005	(478485)
33	12/27/2005	(478486)
34	01/23/2006	(478487)
35	02/23/2006	(478482)
36	03/22/2006	(478483)
37	04/21/2006	(504654)
38	05/17/2006	(504655)
39	06/16/2006	(504656)
40	07/19/2006	(504657)
41	08/12/2006	(526969)
42	09/20/2006	(526970)
43	10/13/2006	(526971)
44	11/15/2006	(627333)
45	12/17/2006	(627335)
46	01/18/2007	(627337)
47	02/14/2007	(627324)
48	03/12/2007	(627325)
49	04/13/2007	(627326)
50	05/16/2007	(627327)
51	05/23/2007	(557378)
52	06/13/2007	(627328)
53	07/13/2007	(627329)
54	08/08/2007	(627330)
55	09/17/2007	(627331)
56	10/17/2007	(627332)
57	11/15/2007	(627334)
58	12/14/2007	(627336)
59	01/16/2008	(627338)
60	02/11/2008	(676126)
61	03/14/2008	(676127)
62	04/10/2008	(676128)

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

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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CLOVERCREEK MUNICIPAL  
UTILITY DISTRICT  
RN102844172**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0861-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 Clovercreek Municipal Utility District ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately two miles south of Magnolia on Nichols-Sawmill Road (Magnolia-Waller Road), south of the intersection of County Place Road and Nichols-Sawmill Road in Montgomery 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 May 13, 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 Two Thousand Seven Hundred Dollars (\$2,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Sixty Dollars (\$2,160) of the administrative penalty and Five Hundred Forty Dollars (\$540) 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 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.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to maintain authorization for the discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE §§ 305.125(2) and 305.65, as documented during an investigation conducted on May 1, 2008. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13115001 and is continuing to discharge wastewater from the Facility without authorization.

## 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: Clovercreek Municipal Utility District, Docket No. 2008-0861-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. 13115001;
  - b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE ch. 305 to:

Application Review and Processing Team  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;
  - d. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.b, in accordance with Ordering Provision No. 2.f below;
  - e. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, in accordance with Ordering Provision No. 2.f, below; and
  - f. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos.



2.a, 2.b, and 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

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.



Clovercreek Municipal Utility District  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John S. ...*  
For the Executive Director

11/3/2008  
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.

*Anthony V. Roubik*  
Signature

Sept. 11, 2008  
Date

ANTHONY V. ROUBIK  
Name (Printed or typed)  
Authorized Representative of  
Clovercreek Municipal Utility District

President of the Board  
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.

