

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0869-MWD-E **TCEQ ID:** RN102183696 **CASE NO.:** 35953

RESPONDENT NAME: Harris County Municipal Utility District No. 82

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: Harris County MUD No. 82, located approximately 1.5 miles east of Aldine-Westfield Road and approximately three miles north of Farm-to-Market Road 1960 at 2400 Domino Road, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 December 29, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Gary Sundstrom, President, Harris County Municipal Utility District No. 82, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 24, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 14, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011799001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$3,525</p> <p>Total Deferred: \$705 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,820</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, and on a quarterly basis thereafter, submit a report to the Commission documenting the progress of the engineering study and corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits; and</p> <p>b. Within 730 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011799001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limits.</p>

Additional ID No(s): WQ0011799001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

DATES	Assigned	19-May-2008			
	PCW	14-Jun-2008	Screening	27-May-2008	EPA Due 5-Jun-2008

RESPONDENT/FACILITY INFORMATION	
Respondent	Harris County Municipal Utility District No. 82
Reg. Ent. Ref. No.	RN102183696
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35953	No. of Violations	1
Docket No.	2008-0869-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		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)	<i>Subtotal 1</i>	\$2,500
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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	41.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$1,025
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Notes: The Respondent self-reported six months of effluent quality violations, was issued one Notice of Violation for violations considered to be same or similar, and was issued three Notices of Violations for violations considered not to be same or similar.

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

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$1,973
 Approx. Cost of Compliance \$17,544
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$3,525
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<i>Final Penalty Amount</i>	\$3,525
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$3,525
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$705
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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	\$2,820
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Screening Date 27-May-2008	Docket No. 2008-0869-MWD-E	PCW
Respondent Harris County Municipal Utility District No. 82	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35953	<i>PCW Revision April 29, 2008</i>	
Reg. Ent. Reference No. RN102183696		
Media [Statute] Water Quality		
Enf. Coordinator Heather Brister		

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	7	35%
	Other written NOVs	3	6%
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) 41%

>> **Repeat Violator (Subtotal 3)**

No	Adjustment Percentage (Subtotal 3) 0%
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>> **Compliance History Person Classification (Subtotal 7)**

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> **Compliance History Summary**

Compliance History Notes	The Respondent self-reported six months of effluent quality violations, was issued one Notice of Violation for violations considered to be same or similar, and was issued three Notices of Violations for violations considered not to be same or similar.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 41%

Screening Date	27-May-2008	Docket No.	2008-0869-MWD-E	PCW
Respondent	Harris County Municipal Utility District No. 82			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35953			<i>PCW Revision April 29, 2008</i>
Reg. Ent. Reference No.	RN102183696			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			
Violation Number	1			

Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011799001, Effluent Limitations and Monitoring Requirements No. 1
Violation Description	Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on April 24, 2008, and as shown in the attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual		X	Percent <input type="text" value="25%"/>
Potential				

>> Programmatic Matrix

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

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty

One quarterly event is recommended.

Good Faith Efforts to Comply Reduction

	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 for this violation.

Violation Subtotal

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 Municipal Utility District No. 82
Case ID No. 35953
Reg. Ent. Reference No. RN102183696
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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				0.00	\$0	n/a	\$0
Other (as needed)	\$17,544	1-Dec-2007	1-Mar-2010	2.25	\$1,973	n/a	\$1,973

Notes for DELAYED costs

The cost to hire an engineer to make necessary modifications and to make necessary upgrades to the Facility. Date Required is the initial date of noncompliance and Final Date is the expected date of 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

\$17,544

TOTAL

\$1,973

Effluent Limit Violation Table

table rev.

Respondent Harris County Municipal Utility District No. 82
 ID Number(s) WQ0011799001
 Docket Number 2008-0869-MWD-E
 Enf. Coordinator Heather Brister

Corresponds to Violation Number:

1

<i>EFFLUENT PARAMETER</i>		
<i>Permit Limit</i>		
	Total Ammonia Nitrogen Daily Average Concentration 3 Milligrams per Liter	Total Ammonia Nitrogen Daily Maximum Concentration 10 Milligrams per Liter
<i>Month/Year</i>		
Dec-07	5.83	14.00
Jan-08	3.64	23.10

Compliance History

Customer/Respondent/Owner-Operator: CN601468614 Harris County Municipal Utility District No. 82 Classification: AVERAGE Rating: 1.78

Regulated Entity: RN102183696 HARRIS COUNTY MUD NO. 82 Classification: AVERAGE Site Rating: 0.56

ID Number(s):
 WASTEWATER PERMIT WQ0011799001
 WASTEWATER PERMIT TPDES0071528
 WASTEWATER PERMIT TX0071528
 WASTEWATER LICENSING LICENSE WQ0011799001

Location: Located approximately 1.5 miles east of Aldine-Westfield Road and approximately 3 miles north of Farm-to-Market Road 1960 at 2400 Domino Road in Harris County, Texas. Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 25, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 25, 2003 to May 25, 2008

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

Name: Heather Brister Phone: 254/761-3034

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 06/23/2003 (197712) | |
| 2 07/24/2003 (197716) | |
| 3 09/02/2003 (312182) | |
| 4 09/22/2003 (312184) | |
| 5 10/24/2003 (312186) | |
| 6 11/24/2003 (312187) | |
| 7 12/29/2003 (312188) | |
| 8 01/26/2004 (312189) | |
| 9 02/25/2004 (312170) | |
| 10 03/25/2004 (312173) | |
| 11 03/30/2004 (333005) | |
| 12 04/29/2004 (312174) | |
| 13 05/25/2004 (312176) | |
| 14 07/01/2004 (333006) | |
| 15 07/06/2004 (312180) | |
| 16 07/25/2004 (312178) | |
| 17 08/23/2004 (358960) | |
| 18 09/15/2004 (358961) | |
| 19 10/25/2004 (358962) | |
| 20 10/29/2004 (334632) | |
| 21 11/23/2004 (358963) | |
| 22 12/27/2004 (385659) | |
| 23 12/27/2004 (371114) | |
| 24 01/21/2005 (385660) | |
| 25 02/28/2005 (385657) | |
| 26 03/30/2005 (385658) | |
| 27 04/25/2005 (444433) | |
| 28 05/23/2005 (444434) | |

29 06/30/2005 (444435)
 30 07/22/2005 (444436)
 31 08/24/2005 (444437)
 32 09/19/2005 (475040)
 33 10/21/2005 (444438)
 34 10/21/2005 (444439)
 35 11/28/2005 (475041)
 36 12/27/2005 (475042)
 37 03/08/2006 (475038)
 38 03/30/2006 (475039)
 39 04/28/2006 (502643)
 40 05/22/2006 (502646)
 41 06/05/2006 (502644)
 42 07/03/2006 (502645)
 43 08/29/2006 (524968)
 44 09/25/2006 (524969)
 45 10/26/2006 (584171)
 46 12/04/2006 (514798)
 47 12/06/2006 (584172)
 48 01/05/2007 (584173)
 49 01/18/2007 (584174)
 50 03/05/2007 (584166)
 51 04/02/2007 (584167)
 52 04/30/2007 (584168)
 53 04/30/2007 (584170)
 54 05/30/2007 (562121)
 55 05/31/2007 (584169)
 56 07/09/2007 (604170)
 57 09/04/2007 (604171)
 58 09/27/2007 (604172)
 59 09/27/2007 (604173)
 60 11/12/2007 (623130)
 61 11/12/2007 (623132)
 62 11/29/2007 (623131)
 63 01/02/2008 (674522)
 64 03/04/2008 (674519)
 65 03/04/2008 (674521)
 66 03/28/2008 (674520)
 67 05/14/2008 (654028)

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

Date: **11/30/2003** (312188)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **03/30/2004** (333005)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: **07/01/2004** (333006)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/27/2004 (371114)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/31/2005 (444439)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (502645)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/29/2006 (514798)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(d)
 Description: Failure to properly operate and maintain the clarifier.

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.

Self Report? NO Classification: Major
 Citation: TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(1)
 TWC Chapter 26 26.121(a)(2)
 TWC Chapter 26 26.121(a)(3)
 Description: Failure to prevent the unauthorized discharge of untreated or partially treated wastewater from the aeration and digester basins.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: OP Effluent Limit & Monitoring Req. No. 1.
 Description: Failure to maintain compliance with the permit effluent limits for ammonia nitrogen (NH₃-N).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: OP Operational Requirements, No. 1.
 Description: Failure to properly operate the wastewater treatment plant.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
 Description: Failure to properly conduct the chlorine residual test.

Date: 02/28/2007 (584167)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007 (623132)

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 01/31/2008 (674519)

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

- | | | |
|----|---|-----|
| F. | Environmental audits. | N/A |
| G. | Type of environmental management systems (EMSs). | N/A |
| H. | Voluntary on-site compliance assessment dates. | N/A |
| I. | Participation in a voluntary pollution reduction program. | N/A |
| J. | Early compliance. | N/A |

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HARRIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 82
RN102183696

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0869-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 Municipal Utility District No. 82 ("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 1.5 miles east of Aldine-Westfield Road and approximately three miles north of Farm-to-Market Road 1960 at 2400 Domino Road in Harris County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 19, 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 Three Thousand Five Hundred Twenty-Five Dollars (\$3,525) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Two Thousand Eight Hundred Twenty Dollars (\$2,820) of the administrative penalty and Seven Hundred Five Dollars (\$705) 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 comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011799001, Effluent Limitations and Monitoring Requirements No. 1, as documented by a TCEQ record review of self-reported data conducted on April 24, 2008, and as shown in the following table:

<i>EFFLUENT PARAMETER</i>		
<i>Permit Limit</i>		
<i>Month/Year</i>	Total Ammonia Nitrogen Daily Average Concentration 3 Milligrams per Liter	Total Ammonia Nitrogen Daily Maximum Concentration 10 Milligrams per Liter
Dec-07	5.83	14.00
Jan-08	3.64	23.10

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 Municipal Utility District No. 82, Docket No. 2008-0869-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. Within 60 days after the effective date of this Agreed Order, and on a quarterly basis thereafter, submit a report to the Commission, documenting the progress of the engineering study and corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits. The reports shall be submitted to the addresses in Ordering Provisions No. 2.c. below;
 - b. Within 730 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011799001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limits; and
 - c. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/8/08
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

10-27-08
Date

Gary Sundstrom

Name (Printed or typed)
Authorized Representative of
Harris County Municipal Utility District No. 82

President

Title

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

Handwritten text at the top of the page, possibly a title or header, including the word "REPORT".

Second section of handwritten text, appearing as a list or series of points.

Third section of handwritten text, containing several lines of notes or descriptions.

Fourth section of handwritten text, continuing the notes or list.

Fifth section of handwritten text at the bottom of the page.