

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0944-MWD-E **TCEQ ID:** RN101917227 **CASE NO.:** 37814  
**RESPONDENT NAME:** Matagorda County Water Control and Improvement District No. 6

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Van Vleck Plant, located approximately 3,000 feet east of the intersection of State Highway 35 and Farm-to-Market Road 2540, Matagorda County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater system</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 October 19, 2009. 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. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1460; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Frank Gamez, Sr., President, Matagorda County Water Control and Improvement District No. 6, P.O. Box 316, Van Vleck, Texas 77482  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2009-0944-MWD-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" 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> April 24, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 5, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with permit effluent limits for total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010663001, Effluent Limits and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$2,400</p> <p><b>Total Deferred:</b> \$480  <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> \$1,920</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" 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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent returned to compliance with their permitted effluent limits by February 2009, after switching to a sample testing facility that provided more timely feedback which better allowed for the implementation of corrective measures to ensure effluent stayed within permitted limits.</p>

Additional ID No(s): WQ0010663001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	8-Jun-2009	Screening	18-Jun-2009	EPA Due	
	PCW	18-Jun-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Matagorda County Water Control and Improvement District No. 6		
Reg. Ent. Ref. No.	RN101917227		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37814	No. of Violations	1
Docket No.	2009-0944-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jeremy Escobar
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

<b>Penalty Calculation Section</b>			
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		Subtotal 1	\$2,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	45.0% Enhancement	Subtotals 2, 3, & 7	\$900
Notes	Enhancement due to nine months of self-reported effluent violations.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$500
Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
Total EB Amounts	\$164	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$10,000		
<b>SUM OF SUBTOTALS 1-7</b>		Final Subtotal	\$2,400
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$2,400
<b>STATUTORY LIMIT ADJUSTMENT</b>		Final Assessed Penalty	\$2,400
<b>DEFERRAL</b>	20.0% Reduction	Adjustment	-\$480
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$1,920

<b>Screening Date</b>	18-Jun-2009	<b>Docket No.</b>	2009-0944-MWD-E	<b>PCW</b>
<b>Respondent</b>	Matagorda County Water Control and Improvement Distr			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	37814			PCW Revision October 30, 2008
<b>Reg. Ent. Reference No.</b>	RN101917227			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Jeremy Escobar			

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

**Adjustment Percentage (Subtotal 2)** 45%

>> 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

Enhancement due to nine months of self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 45%

<b>Screening Date</b>	18-Jun-2009	<b>Docket No.</b>	2009-0944-MWD-E	<b>PCW</b>
<b>Respondent</b>	Matagorda County Water Control and Improvement District No. 6		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	37814	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101917227			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Jeremy Escobar			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010653001, Effluent Limits and Monitoring Requirements No. 1.			
<b>Violation Description</b>	Failed to comply with permit effluent limits, as documented in a record review conducted on April 24, 2009. See attached table.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			X
	Potential			
				<b>Percent</b> 10%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
				<b>Percent</b> 0%
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.			
<b>Adjustment</b>				\$9,000
				\$1,000
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	2	<b>Number of violation days</b>	62
mark only one with an x	daily			
	weekly			
	monthly			
	quarterly		X	
	semiannual			
	annual			
	single event			
Two quarterly events are recommended.				<b>Violation Base Penalty</b> \$2,000
<b>Good Faith Efforts to Comply</b>				
		25.0% Reduction	\$500	
	Before NOV	NOV to ED/PRP/Settlement Offer		
Extraordinary				
Ordinary	X			
N/A		(mark with x)		
<b>Notes</b>	The Respondent came into compliance by February 2009.			
<b>Violation Subtotal</b>				\$1,500
<b>Economic Benefit (EB) for this violation</b>				
		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$164	<b>Violation Final Penalty Total</b>	\$2,400	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$2,400

## Economic Benefit Worksheet

**Respondent:** Matagorda County Water Control and Improvement District No. 6

**Case ID No.:** 37814

**Reg. Ent. Reference No.:** RN101917227

**Media:** Water Quality

**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Item Description</b> 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)	\$10,000	31-Oct-2008	28-Feb-2009	0.33	\$164	\$164

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the date the system returned to 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

\$10,000

**TOTAL**

\$164

## Effluent Violation Table

Matagorda County Water Control and Improvement District No. 6 Van Vleck Plant  
Docket No. 2009-0944-MWD-E  
Case No. 37814

Permitted Effluent Limits	TSS Daily Average 15 mg/ L
October 2008	21
December 2008	35.4
January 2009	16

TSS = Total Suspended Solids	mg/L = milligrams per liter
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## Compliance History Report

Customer/Respondent/Owner-Operator:	CN600736466	Matagorda County Water Control and Improvement District 6	Classification: AVERAGE	Rating: 0.34
Regulated Entity:	RN101917227	VAN VLECK PLANT	Classification: AVERAGE	Site Rating: 0.34
ID Number(s):	WASTEWATER	PERMIT	WQ0010683001	
	WASTEWATER	PERMIT	TPDES0024155	
	WASTEWATER	PERMIT	TX0024155	
	WASTEWATER LICENSING	LICENSE	WQ0010683001	

Location: Approximately 3,000 feet east of the intersection of State Highway 35 and Farm-to-Market Road 2540 in Matagorda County, Texas

TCEQ Region: REGION 12 - HOUSTON  
 Date Compliance History Prepared: July 09, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: June 18, 2004 to June 18, 2009

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

Name: Jeremy Escobar Phone: 239 - 1460

### 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### 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	07/09/2004	(354020)
2	07/30/2004	(354021)
3	08/27/2004	(354022)
4	10/04/2004	(354023)
5	11/01/2004	(382924)
6	12/08/2004	(382925)
7	01/07/2005	(382926)
8	01/24/2005	(382927)
9	02/21/2005	(430167)
10	03/18/2005	(382923)
11	04/22/2005	(430168)
12	05/27/2005	(430169)
13	06/27/2005	(430170)
14	07/21/2005	(430171)
15	08/22/2005	(441726)
16	09/15/2005	(441727)
17	10/20/2005	(470236)
18	11/14/2005	(470237)
19	12/16/2005	(470238)
20	01/25/2006	(470239)
21	02/16/2006	(470234)
22	03/16/2006	(470235)
23	04/20/2006	(499344)
24	05/23/2006	(499345)
25	06/22/2006	(499346)
26	07/31/2006	(521392)
27	08/28/2006	(521393)
28	08/29/2006	(486091)
29	09/15/2006	(521394)
30	10/23/2006	(545921)
31	11/29/2006	(545922)
32	12/22/2006	(545923)
33	01/16/2007	(577841)
34	02/26/2007	(577837)
35	03/22/2007	(577838)
36	05/03/2007	(577839)
37	05/23/2007	(577840)
38	07/13/2007	(602309)

39	07/26/2007	(602308)
40	09/26/2007	(602310)
41	09/29/2007	(602311)
42	10/11/2007	(620480)
43	12/03/2007	(620491)
44	01/02/2008	(672767)
45	01/26/2008	(672768)
46	02/21/2008	(672766)
47	03/26/2008	(690788)
48	04/11/2008	(690789)
49	05/22/2008	(690790)
50	05/27/2008	(671154)
51	06/23/2008	(711668)
52	07/28/2008	(711669)
53	08/25/2008	(711680)
54	09/29/2008	(711661)
55	10/30/2008	(728148)
56	12/01/2008	(751090)
57	01/08/2009	(751091)
58	01/29/2009	(751092)
59	04/12/2009	(751088)
60	04/13/2009	(751089)
61	06/05/2009	(743724)

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

Date: 06/30/2004 (354021) CN600736466  
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2005 (470239) CN600736466  
 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: 01/31/2006 (470234) CN600736466  
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (521392) CN600736466  
 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: 02/26/2007 (577838) CN600736466  
 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: 03/31/2007 (577839) CN600736466  
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2008 (577839) CN600736466  
 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: 12/31/2008 (577839) CN600736466  
 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: 01/31/2009 (577839) CN600736466

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

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  
MATAGORDA COUNTY WATER  
CONTROL AND IMPROVEMENT  
DISTRICT NO. 6  
RN101917227

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0944-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 Matagorda County Water Control and Improvement District No. 6 ("the District") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the District appear before the Commission and together stipulate that:

1. The District owns and operates a domestic wastewater system approximately 3,000 feet east of the intersection of State Highway 35 and Farm-to-Market Road 2540 in Matagorda County, Texas (the "Facility").
2. The District has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26
3. The Commission and the District agree that the Commission has jurisdiction to enter this Agreed Order, and that the District is subject to the Commission's jurisdiction.
4. The District received notice of the violations alleged in Section II ("Allegations") on or about June 10, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the District of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Four Hundred Dollars (\$2,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The District has paid One Thousand Nine Hundred Twenty Dollars (\$1,920) of the administrative penalty and Four Hundred Eighty Dollars (\$480) is deferred contingent upon the District'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 District fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the District 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 District 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 District returned to compliance with their permitted effluent limits by February 2009, after switching to a sample testing facility that provided more timely feedback which better allowed for the implementation of corrective measures to ensure effluent stayed within permitted limits.
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 District 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 District 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. WQ0010663001, Effluent Limits and Monitoring Requirements No. 1, as documented during a record review conducted on April 24, 2009 and shown in the table below:

Effluent Violation Table	
Permitted Effluent Limits	TSS Daily Average 15 mg/ L
October 2008	21
December 2008	35.4
January 2009	16

TSS = Total Suspended Solids	mg/L = milligrams per liter
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### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the District pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the District'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: Matagorda County Water Control and Improvement District No. 6, Docket No. 2009-0944-MWD-E" to:  
  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the District. The District is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the District in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the District, or three days after the date on which the Commission mails notice of the Order to the District, 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

*Joe Du Zardien*  
For the Executive Director

9/18/09  
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.

*Frank Gamez Sr.*  
Signature

8-11-09  
Date

FRANK GAMEZ SR.  
Name (Printed or typed)  
Authorized Representative of  
Matagorda County Water Control and Improvement District No. 6

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.