

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1048-MWD-E **TCEQ ID:** RN102077583 **CASE NO.:** 37915

RESPONDENT NAME: Magnolia Independent School District

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: Bear Branch Plant, located on the east side of Farm-to-Market Road 2987 at a point approximately 1.1 miles south of the intersection of Farm-to-Market Roads 1488 and 2978, Montgomery County</p> <p>TYPE OF OPERATION: 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 November 16, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Dr. Todd Stephens, Superintendent, Magnolia Independent School District, P.O. Box 791, Magnolia, Texas 77353-0791 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: June 5, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 2, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for pH, total ammonia nitrogen, and 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. WQ0012703001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p>	<p>Total Assessed: \$4,920</p> <p>Total Deferred: \$984 <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: \$3,936</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>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TCEQ Permit No. WQ0012703001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current monthly monitoring records, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0012703001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Jul-2009	Screening	8-Jul-2009	EPA Due	
	PCW	8-Jul-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Magnolia Independent School District
Reg. Ent. Ref. No.	RN102077583
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37915	No. of Violations	1
Docket No.	2009-1048-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 8-Jul-2009

Docket No. 2009-1048-MWD-E

PCW

Respondent Magnolia Independent School District

Policy Revision 2 (September 2002)

Case ID No. 37915

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102077583

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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>	12	60%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 64%

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

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

An enhancement is recommended due to twelve self-reported effluent violations and two NOV's with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 64%

Screening Date 8-Jul-2009	Docket No. 2009-1048-MWD-E	PCW																					
Respondent Magnolia Independent School District		<small>Policy Revision 2 (September 2002)</small>																					
Case ID No. 37915		<small>PCW Revision October 30, 2008</small>																					
Reg. Ent. Reference No. RN102077583																							
Media [Statute] Water Quality																							
Enf. Coordinator Lanae Foard																							
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. WQ0012703001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3																						
Violation Description	Failed to comply with permitted effluent limits, as documented during a record review on June 5, 2009 and as shown in the attached violation table.																						
	Base Penalty	\$10,000																					
>> Environmental, Property and Human Health Matrix																							
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">OR</td> <td style="text-align: center;">Actual</td> <td style="text-align: center;">Potential</td> <td style="text-align: center;">Percent</td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>		Harm				Major	Moderate	Minor	OR	Actual	Potential	Percent		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10%	
	Harm																						
	Major	Moderate	Minor																				
OR	Actual	Potential	Percent																				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																				
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>																				
>> Programmatic Matrix																							
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Major	Moderate	Minor		Falsification	Major	Moderate		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	0%					
	Major	Moderate	Minor																				
	Falsification	Major	Moderate																				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																				
Matrix Notes	A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids and pH were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.																						
	Adjustment	\$9,000																					
		\$1,000																					
Violation Events																							
	Number of Violation Events	3																					
		151																					
	Number of violation days																						
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">daily</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">weekly</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">monthly</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">quarterly</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">semiannual</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">annual</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">single event</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		daily	<input type="checkbox"/>		weekly	<input type="checkbox"/>		monthly	<input type="checkbox"/>		quarterly	<input checked="" type="checkbox"/>		semiannual	<input type="checkbox"/>		annual	<input type="checkbox"/>		single event	<input type="checkbox"/>	Violation Base Penalty
	daily	<input type="checkbox"/>																					
	weekly	<input type="checkbox"/>																					
	monthly	<input type="checkbox"/>																					
	quarterly	<input checked="" type="checkbox"/>																					
	semiannual	<input type="checkbox"/>																					
	annual	<input type="checkbox"/>																					
	single event	<input type="checkbox"/>																					
<small>mark only one with an x</small>		\$3,000																					
	Three quarterly events are recommended.																						
Good Faith Efforts to Comply																							
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">0.0% Reduction</td> <td style="text-align: right;">\$0</td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EOPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		0.0% Reduction	\$0		Before NOV	NOV to EOPRP/Settlement Offer	Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>	(mark with x)							
	0.0% Reduction	\$0																					
	Before NOV	NOV to EOPRP/Settlement Offer																					
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>																					
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>																					
N/A	<input checked="" type="checkbox"/>	(mark with x)																					
Notes	The Respondent does not meet the good faith criteria for this violation.																						
	Violation Subtotal	\$3,000																					
Economic Benefit (EB) for this violation																							
	Estimated EB Amount	\$25																					
	Statutory Limit Test	Violation Final Penalty Total																					
		\$4,920																					
	This violation Final Assessed Penalty (adjusted for limits)	\$4,920																					

Economic Benefit Worksheet

Respondent Magnolia Independent School District
Case ID No. 37915
Reg. Ent. Reference No. RN102077583
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

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	\$250	30-Apr-2008	30-Apr-2010	2.00	\$25	n/a	\$25
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct employee training to ensure standard operating procedures regarding proper disposal of chemicals are followed in the future to avoid effluent violations. Date required is the date of noncompliance. 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

\$250

TOTAL:

\$25

EFFLUENT VIOLATION TABLE					
Magnolia Independent School District					
TPDES Permit No. WQ0012703001					
Docket No. 2009-1048-MWD-E					
Permitted Effluent Limits	Monitoring Period End Date				
	4/30/08	10/31/08	12/31/2008	1/31/2009	2/28/2009
pH minimum	c	5.3	c	c	c
limit = 6 s.u.					
NH3-N daily avg. conc.	c	c	c	9.98	3.68
limit = 3 mg/L					
NH3-N single grab conc.	c	c	c	17.4	c
limit = 15 mg/L					
TSS daily avg. loading	c	c	c	10.53	c
limit = 6.0 lbs/day					
TSS daily avg. conc	18.6	c	15.5	19.7	29.8
limit = 15 mg/L					

TSS = total suspended solids

NH3-N = total ammonia nitrogen

conc. = concentration

avg. = average

lbs/day = pounds per day

mg/L = milligrams per liter

c = compliant

s.u. = standard unit

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600590822	Magnolla ISD	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN102077583	BEAR BRANCH PLANT	Classification: AVERAGE	Site Rating: 0.59
ID Number(s):	WASTEWATER	PERMIT	WQ0012703001	
	WASTEWATER	PERMIT	TPDES0092843	
	WASTEWATER	PERMIT	TX0092843	
	WASTEWATER LICENSING	LICENSE	WQ0012703001	
Location:	ON THE EAST SIDE OF FARM-TO-MARKET ROAD 2987 AT A POINT APPROXIMATELY 1.1 MILES SOUTH OF THE INTERSECTION OF FARM-TO-MARKET ROADS 1488 AND 2978 IN MONTGOMERY COUNTY, TEXAS			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	July 08, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 08, 2004 to July 08, 2009			

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

Name: Lanae Foard Phone: 512-239-2554

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	07/16/2004	(362248)
2	08/26/2004	(362249)
3	10/18/2004	(387600)
4	11/18/2004	(387601)
5	12/13/2004	(387602)
6	01/18/2005	(387603)
7	02/22/2005	(387609)
8	03/21/2005	(445897)
9	05/03/2005	(425320)
10	05/19/2005	(425321)
11	06/20/2005	(425322)
12	07/18/2005	(445898)
13	07/20/2005	(397067)
14	09/07/2005	(445899)
15	09/19/2005	(445900)
16	10/21/2005	(477889)
17	11/22/2005	(477890)
18	12/27/2005	(477891)
19	01/27/2006	(477892)
20	02/21/2006	(477887)
21	03/27/2006	(477888)
22	04/14/2006	(504316)
23	05/19/2006	(504317)
24	07/14/2006	(528661)
25	08/28/2006	(528662)
26	09/18/2006	(528663)
27	10/13/2006	(626122)
28	11/20/2006	(626124)

29 01/16/2007 (626127)
 30 02/20/2007 (626114)
 31 03/22/2007 (626115)
 32 04/20/2007 (626116)
 33 05/17/2007 (626117)
 34 06/21/2007 (626118)
 35 07/13/2007 (626119)
 36 08/17/2007 (626120)
 37 09/18/2007 (626121)
 38 10/19/2007 (626123)
 39 11/16/2007 (626125)
 40 12/17/2007 (626126)
 41 01/14/2008 (675845)
 42 02/15/2008 (694214)
 43 03/17/2008 (675844)
 44 03/18/2008 (616429)
 45 05/30/2008 (694215)
 46 05/30/2008 (694216)
 47 07/21/2008 (715588)
 48 08/28/2008 (715589)
 49 09/26/2008 (715587)
 50 09/26/2008 (715590)
 51 10/24/2008 (731304)
 52 11/20/2008 (731305)
 53 12/16/2008 (731306)
 54 01/20/2009 (754612)
 55 02/17/2009 (754611)
 56 07/02/2009 (748405)

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

Date: 07/31/2004 (362249) CN600590822

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: 09/30/2004 (387600) CN600590822

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 (477892) CN600590822

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: 02/28/2006 (477888) CN600590822

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: 12/31/2006 (626127) CN600590822

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: 02/28/2007 (626115) CN600590822

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: 02/29/2008 (675844) CN600590822

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: 03/18/2008 (616429) CN600590822

Self Report? NO Classification: Minor

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

Description: Failure to provide an effluent violation notification letter in accordance with the permit requirements and applicable State regulations.

Date: 04/30/2008 (694216) CN600590822

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2009 (731305) CN600590822
 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: 12/31/2009 CN600590822
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to provide an effluent violation notification letter in accordance with the permit requirements and applicable State regulations.
 Date: 12/31/2009 CN600590822
 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: 01/31/2009 CN600590822
 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: 02/28/2009 CN600590822
 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
MAGNOLIA INDEPENDENT
SCHOOL DISTRICT
RN102077583

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1048-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 Magnolia Independent School 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 facility located on the east side of Farm-to-Market Road 2987 at a point approximately 1.1 miles south of the intersection of Farm-to-Market Roads 1488 and 2978 in Montgomery 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 July 7, 2009.
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 Four Thousand Nine Hundred Twenty Dollars (\$4,920) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Thousand Nine Hundred Thirty-Six Dollars (\$3,936) of the administrative penalty and Nine Hundred Eighty-Four Dollars (\$984) 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 permitted 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. WQ0012703001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review on June 5, 2009, and as shown in the following violation table:

EFFLUENT VIOLATION TABLE					
Permitted Effluent Limits	Monitoring Period End Date				
	4/30/08	10/31/08	12/31/2008	1/31/2009	2/28/2009
pH minimum	c	5.3	c	c	c
limit = 6 s.u.					
NH3-N daily avg. conc.	c	c	c	9.98	3.68
limit = 3 mg/L					
NH3-N single grab conc.	c	c	c	17.4	c
limit = 15 mg/L					
TSS daily avg. loading	c	c	c	10.53	c
limit = 6.0 lbs/day					
TSS daily avg. conc	18.6	c	15.5	19.7	29.8
limit = 15 mg/L					

TSS = total suspended solids

lbs/day = pounds per day

NH3-N = total ammonia nitrogen

mg/L = milligrams per liter

conc. = concentration

c = compliant

avg. = average

s.u. = standard unit

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: Magnolia Independent School District, Docket No. 2009-1048-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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TCEQ Permit No. WQ0012703001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current monthly monitoring records, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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

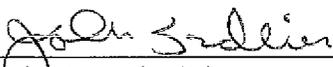
receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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 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.
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

10/13/2009
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

Todd Stephens, PH.D.

Name (Printed or typed)
Authorized Representative of
Magnolia Independent School District

9-8-09
Date

Superintendent of Schools
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.