

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0403-MWD-E **TCEQ ID:** RN101607299 **CASE NO.:** 37361

RESPONDENT NAME: El Dorado Utility 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: El Dorado UD, located immediately south of and adjacent to Garners Bayou, approximately 1/2 mile east of Old Humble Road crossing of Garners Bayou and two miles east of U. S. Highway 59, Harris 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 August 10, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Peter Hwang, President, El Dorado Utility District, c/o Coats, Rose, Yale, Ryman & Lee, PC, 3 East Greenway Plaza, Suite 2000, Houston, Texas 77046 Respondent's Attorney: Mr. Dick Yale, Jr., Coats, Rose, Yale, Ryman & Lee, PC, 3 East Greenway Plaza, Suite 2000, Houston, Texas 77046</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 18, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent unauthorized discharges from the collection system and the wastewater treatment plant ("WWTP"). Specifically, four unauthorized discharges occurred from the collection system between October 2007 and May 2008, and one occurred from the WWTP on October 15, 2008 which was contained [30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011302001, Permit Condition Nos. 2.d. and 2.g.].</p> | <p>Total Assessed: \$6,500</p> <p>Total Deferred: \$1,300 <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: \$5,200</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On October 22, 2007, fixed the electrical problem at the Audobon Forest Lift Station, disinfected the area, and flushed the area with fresh water;</p> <p>b. On November 27, 2007, pressure cleaned the collection line to remove the grease blockage and disinfected the immediate area around the manhole at 8320 Scarlet Tanger Drive with calcium hypochlorite;</p> <p>c. On February 29, 2008, pressure cleaned the grass surrounding the cleanout at 15323 Waxwing Park with calcium hypochlorite and fresh water;</p> <p>d. On May 15, 2008, removed the grease blockage from the collection line and disinfected the immediate area around the line at 552 Thickethorn Park and pressure cleaned with calcium hypochlorite; and</p> <p>e. On October 15, 2008, cleaned the affected area near the aeration basin at the WWTP with calcium hypochlorite and washed with fresh water, and utilized a vacuum truck to further remove excess washwater from the cleaning.</p> |

Additional ID No(s): TPDES Permit No. WQ0011302001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|
| DATES | Assigned | 23-Mar-2009 | | | |
| | PCW | 31-Mar-2009 | Screening | 25-Mar-2009 | EPA Due |

| | | | |
|--|----------------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | El Dorado Utility District | | |
| Reg. Ent. Ref. No. | RN101607299 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37361 | No. of Violations | 1 |
| Docket No. | 2009-0403-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | J. Craig Fleming |
| | | EC's Team | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | | |
|---|--|-----------------------------------|-----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | | Subtotal 1 | \$5,000 |
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | | |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. | | | |
| Compliance History | 75.0% Enhancement | Subtotals 2, 3, & 7 | \$3,750 |
| Notes | An enhancement is recommended for having six NOV's for self-reported effluent violations, one NOV with same/similar violations, and two agreed final enforcement orders with denial. | | |
| Culpability | No | Subtotal 4 | \$0 |
| Notes | The Respondent does not meet the culpability criteria. | | |
| Good Faith Effort to Comply Total Adjustments | | Subtotal 5 | \$1,250 |
| Economic Benefit | | Subtotal 6 | \$0 |
| Total EB Amounts <input type="text" value="\$49"/> Approx. Cost of Compliance <input type="text" value="\$2,000"/> | | *Capped at the Total EB \$ Amount | |
| SUM OF SUBTOTALS 1-7 | | Final Subtotal | \$7,500 |
| OTHER FACTORS AS JUSTICE MAY REQUIRE | | Adjustment | -\$1,000 |
| Reduces or enhances the Final Subtotal by the indicated percentage. | | | |
| Notes | Reduction recommended to adjust for minor discharges. | | |
| | | Final Penalty Amount | \$6,500 |
| STATUTORY LIMIT ADJUSTMENT | | Final Assessed Penalty | \$6,500 |
| DEFERRAL | | Adjustment | -\$1,300 |
| Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.) | | | |
| Notes | Deferral offered for expedited settlement. | | |
| PAYABLE PENALTY | | | \$5,200 |

| | | |
|--|-----------------------------------|---|
| Screening Date 25-Mar-2009 | Docket No. 2009-0403-MWD-E | PCW |
| Respondent El Dorado Utility District | | <small>Policy Revision 2 (September 2002)</small> |
| Case ID No. 37361 | | <small>PCW Revision October 30, 2008</small> |
| Reg. Ent. Reference No. RN101607299 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator J. Craig Fleming | | |

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 | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i> | 2 | 40% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i> | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government <i>(number of counts)</i> | 0 | 0% |
| Emissions | Chronic excessive emissions events <i>(number of events)</i> | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i> | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i> | 0 | 0% |
| <small>Please Enter Yes or No</small> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 75%

>> **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 for having six NOVs for self-reported effluent violations, one NOV with same/similar violations, and two agreed final enforcement orders with denial. |
|---------------------------------|---|

Total Adjustment Percentage (Subtotals 2, 3, & 7) 75%

| | | | | |
|--|---|--------------------------------------|---------------------------------|-------------------------------------|
| Screening Date 25-Mar-2009 | Docket No. 2009-0403-MWD-E | PCW | | |
| Respondent El Dorado Utility District | <small>Policy Revision 2 (September 2002)</small> | | | |
| Case ID No. 37361 | <small>PCW Revision October 30, 2008</small> | | | |
| Reg. Ent. Reference No. RN101607299 | | | | |
| Media [Statute] Water Quality | | | | |
| Enf. Coordinator J. Craig Fleming | | | | |
| Violation Number 1 | | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011302001, Permit Condition Nos. 2.d. and 2.g. | | | |
| Violation Description | Failed to prevent unauthorized discharges from the collection system and the wastewater treatment plant ("WWTP"). Specifically, four unauthorized discharges that occurred from the collection system were reported between October 2007 through May 2008, and one discharge from the WWTP on October 15, 2008, as documented during the investigation conducted on January 21, 2009. See Summary of Unauthorized Discharges. | | | |
| Base Penalty | | \$10,000 | | |
| >> Environmental, Property and Human Health Matrix | | | | |
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Percent | | | | 10% |
| >> Programmatic Matrix | | | | |
| | Falsification | Major | Moderate | Minor |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Percent | | | | 0% |
| Matrix Notes | Human health or the environment has been exposed to insignificant amounts of pollutants. | | | |
| Adjustment | | | | \$9,000 |
| | | | | \$1,000 |
| Violation Events | | | | |
| | Number of Violation Events | 5 | Number of violation days | 5 |
| <i>mark only one with an x</i> | daily | <input type="checkbox"/> | | |
| | weekly | <input type="checkbox"/> | | |
| | monthly | <input type="checkbox"/> | | |
| | quarterly | <input type="checkbox"/> | | |
| | semiannual | <input type="checkbox"/> | | |
| | annual | <input type="checkbox"/> | | |
| | single event | <input checked="" type="checkbox"/> | | |
| Violation Base Penalty | | | | \$5,000 |
| Five single events are recommended (one for each discharge). | | | | |
| Good Faith Efforts to Comply | | | | |
| | | 25.0% Reduction | \$1,250 | |
| | | Before NOV | NOV to EDRP/Settlement Offer | |
| Extraordinary | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Ordinary | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| N/A | <input type="checkbox"/> | (mark with x) | | |
| Notes | The Respondent came into compliance on October 15, 2008. | | | |
| Violation Subtotal | | | | \$3,750 |
| Economic Benefit (EB) for this violation | | | | |
| Statutory Limit Test | | | | |
| Estimated EB Amount | \$49 | Violation Final Penalty Total | \$6,500 | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | \$6,500 |

Economic Benefit Worksheet

Respondent El Dorado Utility District
Case ID No. 37361
Reg. Ent. Reference No. RN101607299
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 | \$1,000 | 15-Oct-2008 | 15-Oct-2008 | 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) | \$1,000 | 22-Oct-2007 | 15-Oct-2008 | 0.98 | \$49 | n/a | \$49 |

Notes for DELAYED costs Estimated cost to remove blockages and remediate (\$1,000) the immediate area, and additional cost (\$1,000) for a vacuum truck to remove excess wastewater from the WWTP. The Date Required was the day of the first overflow. The Final Date is the date the last overflow was remediated.

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

N/A

Approx. Cost of Compliance

\$2,000

TOTAL

\$49

El Dorado Utility District
Docket No. 2009-0403-MWD-E
Summary of Unauthorized Discharges

| Date | Volume (gallons) | Location | Cause |
|-------------------|------------------|---|---|
| October 22, 2007 | 105 | Customer cleanout at 7926 Audobon Forest. Discharge route was from the manhole to the storm drain. | Lift station power outage |
| November 27, 2007 | 2,200 | Collection system manhole at 8230 Scarlet Tanger Drive. Discharge route was from the manhole to bayou. | Grease |
| February 29, 2008 | 180 | District cleanout of storm sewer inlet at 15323 Waxwing Park. Discharge route was from the cleanout to the storm sewer inlet. | Unknown |
| May 15, 2008 | 675 | Collection line at 552 Thickhorn Park. Discharge route was from the manhole to the storm inlet. | Grease |
| October 15, 2008 | 20,000 | Overflow at the WWTP | Rain caused high flow to the plant causing the aeration basin to overflow |

| | | |
|----|------------|----------|
| 1 | 04/26/2004 | (354505) |
| 2 | 05/24/2004 | (354506) |
| 3 | 06/24/2004 | (354507) |
| 4 | 07/22/2004 | (354508) |
| 5 | 08/30/2004 | (354509) |
| 6 | 09/13/2004 | (354511) |
| 7 | 09/20/2004 | (354510) |
| 8 | 10/25/2004 | (354512) |
| 9 | 11/24/2004 | (383197) |
| 10 | 12/27/2004 | (383198) |
| 11 | 01/24/2005 | (383199) |
| 12 | 02/22/2005 | (421034) |
| 13 | 04/22/2005 | (421035) |
| 14 | 05/24/2005 | (421036) |
| 15 | 06/27/2005 | (421037) |
| 16 | 07/25/2005 | (441993) |
| 17 | 08/22/2005 | (441994) |
| 18 | 09/28/2005 | (441995) |
| 19 | 10/24/2005 | (470810) |
| 20 | 11/21/2005 | (470811) |
| 21 | 12/27/2005 | (470812) |
| 22 | 01/23/2006 | (470813) |
| 23 | 02/23/2006 | (470808) |
| 24 | 03/22/2006 | (470809) |
| 25 | 04/21/2006 | (499742) |
| 26 | 05/05/2006 | (459723) |
| 27 | 05/10/2006 | (499743) |
| 28 | 06/13/2006 | (499744) |
| 29 | 07/13/2006 | (499745) |
| 30 | 08/12/2006 | (521826) |
| 31 | 09/16/2006 | (521827) |
| 32 | 10/12/2006 | (521828) |
| 33 | 11/09/2006 | (546464) |
| 34 | 12/12/2006 | (546465) |
| 35 | 01/15/2007 | (546466) |
| 36 | 02/17/2007 | (546463) |
| 37 | 03/12/2007 | (578587) |
| 38 | 04/16/2007 | (578588) |
| 39 | 05/02/2007 | (557264) |
| 40 | 05/16/2007 | (578589) |
| 41 | 06/14/2007 | (578590) |
| 42 | 07/17/2007 | (578591) |
| 43 | 08/21/2007 | (602518) |
| 44 | 09/14/2007 | (602519) |
| 45 | 09/20/2007 | (570373) |
| 46 | 10/17/2007 | (597704) |
| 47 | 10/17/2007 | (602520) |
| 48 | 11/15/2007 | (620733) |
| 49 | 12/14/2007 | (620734) |
| 50 | 01/17/2008 | (620735) |
| 51 | 02/11/2008 | (672967) |
| 52 | 03/14/2008 | (672968) |
| 53 | 04/16/2008 | (672969) |
| 54 | 05/14/2008 | (691027) |
| 55 | 06/20/2008 | (691028) |
| 56 | 07/15/2008 | (691029) |

57 09/03/2008 (711910)
 58 09/19/2008 (711911)
 59 10/20/2008 (711912)
 60 11/18/2008 (728325)
 61 01/16/2009 (728326)
 62 03/18/2009 (724241)

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

Date: 03/31/2004 (354505) CN600861496
 Self YES Classifica 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: 10/31/2005 (470811) CN600861496
 Self YES Classifica 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 (546466) CN600861496
 Self YES Classifica 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: 01/31/2007 (546463) CN600861496
 Self YES Classifica 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: 05/31/2007 (578590) CN600861496
 Self YES Classifica 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: 09/19/2007 (570373) CN600861496
 Self NO Classifica Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)
 TWC Chapter 26 26.121(a)(1)
 TWC Chapter 26 26.121(a)(2)
 TWC Chapter 26 26.121(a)(3)
 TWC Chapter 26 26.121(b)
 TWC Chapter 26 26.121(c)
 TWC Chapter 26 26.121(d)
 TWC Chapter 26 26.121(e)
 Description: Failure to prevent unauthorized discharges from the collection system.
 Date: 05/31/2008 (691028) CN600861496
 Self YES Classifica 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
EI DORADO UTILITY DISTRICT
RN101607299

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0403-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 El Dorado Utility District ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Dick Yale, Jr. of the law firm of Coats, Rose, Yale, Ryman & Lee, PC, appear before the Commission and together stipulate that:

1. The Respondent owns a wastewater treatment facility and collection system located immediately south of and adjacent to Garners Bayou, approximately 1/2 mile east of Old Humble Road crossing of Garners Bayou and two miles east of U. S. Highway 59 in Harris County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 23, 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 Six Thousand Five Hundred Dollars (\$6,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Two Hundred Dollars (\$5,200) of the administrative penalty and One Thousand Three Hundred Dollars (\$1,300) 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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On October 22, 2007, fixed the electrical problem at the Audobon Forest Lift Station, disinfected the area, and flushed the area with fresh water;
 - b. On November 27, 2007, pressure cleaned the collection line to remove the grease blockage and disinfected the immediate area around the manhole at 8320 Scarlet Tanger Drive with calcium hypochlorite;
 - c. On February 29, 2008, pressure cleaned the grass surrounding the cleanout at 15323 Waxwing Park with calcium hypochlorite and fresh water;
 - d. On May 15, 2008, removed the grease blockage from the collection line and disinfected the immediate area around the line at 552 Thickhorn Park and pressure cleaned with calcium hypochlorite; and
 - e. On October 15, 2008, cleaned the affected area near the aeration basin at the wastewater treatment plant ("WWTP") with calcium hypochlorite and washed with fresh water, and utilized a vacuum truck to further remove excess washwater from the cleaning.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Facility, the Respondent is alleged to have failed to prevent unauthorized discharges from the collection system and the wastewater treatment plant ("WWTP"), in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0011302001, Permit Condition Nos. 2.d. and 2.g., as documented during an investigation conducted on January 21, 2009. Specifically, four unauthorized discharges occurred from the collection system between October 2007 and May 2008, and one occurred from the WWTP on October 15, 2008 which was contained, as shown in the following table:

| Date | Volume (gallons) | Location | Cause |
|-------------------|------------------|--|---|
| October 22, 2007 | 105 | Customer cleanout at 7926 Audobon Forest. Discharge route was from the manhole to the storm drain. | Lift station power outage |
| November 27, 2007 | 2200 | Collection system manhole at 8230 Scarlet Tanger Drive. Discharge route was from the manhole to bayou. | Grease |
| February 29, 2008 | 180 | District cleanout of storm sewer inlet at 15323 Waxwing Park. Discharge route was from the cleanout to the storm sewer inlet | Unknown |
| May 15, 2008 | 675 | Collection line at 552 Thickhorn Park. Discharge route was from the manhole to the storm inlet | Grease |
| October 15, 2008 | 20,000 | Overflow at the WWTP | Rain caused high flow to the plant causing the aeration basin to overflow |

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: El Dorado Utility District, Docket No. 2009-0403-MWD-E" to:

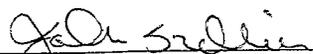
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the 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.
3. 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.
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 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

7/22/2009
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

5/27/2009
Date

Peter Hwang
Name (Printed or typed)
Authorized Representative of
El Dorado Utility District

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.

