

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0554-MWD-E **TCEQ ID:** RN101610491 **CASE NO.:** 37483

RESPONDENT NAME: Bell County Water Control & Improvement District No. 2

| | | |
|---|---|--|
| 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: Academy Plant, located immediately west of State Highway 95 approximately 700 feet south of the intersection of State Highway 95 and Farm-to-Market Road 436, Bell County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 July 20, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Billy K. Easley, President, Bell County Water Control & Improvement District No. 2, P.O. Box 338, Little River, Texas 76554 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 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: February 3, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 4, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of sludge and floating solids. Specifically, samples collected from the receiving stream near and downstream of Outfall 001 revealed elevated levels of total coliform, ammonia nitrogen, total kjeldahl nitrogen, nitrite, ortho phosphate, and total phosphorus [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011090001, Permit Conditions No. 2.d. and Operational Requirements No. 1].</p> | <p>Total Assessed: \$2,750</p> <p>Total Deferred: \$550 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,200</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. Completed removal of sludge from the receiving stream using a vacuum truck on March 9, 2009; and</p> <p>b. Developed and implemented a solids management plan on February 10, 2009 that addresses the management and retention of solids within the plant to prevent the discharge of floating solids and sludge into the receiving stream.</p> |

Additional ID No(s): TPDES Permit No. WQ0011090001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|
| DATES | Assigned | 13-Apr-2009 | | | |
| | PCW | 22-Apr-2009 | Screening | 17-Apr-2009 | EPA Due |

| | | | |
|--|--|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Bell County Water Control & Improvement District No. 2 | | |
| Reg. Ent. Ref. No. | RN101610491 | | |
| Facility/Site Region | 9-Waco | Major/Minor Source | Minor |

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37483 | No. of Violations | 1 |
| Docket No. | 2009-0554-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Thomas Jecha |
| | | 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 | \$1,000 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|--------------------|--------------------------------|----------------|
| Compliance History | 200.0% Enhancement | Subtotals 2, 3, & 7 | \$2,000 |
|---------------------------|--------------------|--------------------------------|----------------|

Notes: Enhancement for 35 NOVs with self-reported effluent data, one NOV with same or similar violations, and one agreed order with a denial of liability at this Facility within the past five years.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| 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 | \$250 |
|--|-------------------|--------------|

| | | | |
|-------------------------|-------------------|-------------------|------------|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|------------|

| | | |
|----------------------------|---------|-----------------------------------|
| Total EB Amounts | \$37 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$8,100 | |

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$2,750 |
|-----------------------------|-----------------------|----------------|

| | | | |
|---|------|-------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$2,750 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$2,750 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|-----------------|-------------------|---------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$550 |
|-----------------|-----------------|-------------------|---------------|

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

Notes

Deferral offered for expedited settlement.

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$2,200 |
|------------------------|----------------|

Screening Date 17-Apr-2009 **Docket No.** 2009-0554-MWD-E
Respondent Bell County Water Control & Improvement District No. 2
Case ID No. 37483
Reg. Ent. Reference No. RN101610491
Media [Statute] Water Quality
Enf. Coordinator Thomas Jecha

PCW
 Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

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) | 36 | 180% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 1 | 20% |
| | 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 judgments 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% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 200%

>> **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 for 35 NOVs with self-reported effluent data, one NOV with same or similar violations, and one agreed order with a denial of liability at this Facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 200%

| | | | | | |
|---|--|--|---|--|----------------------|
| Screening Date 17-Apr-2009 | | Docket No. 2009-0554-MWD-E | | PCW | |
| Respondent Bell County Water Control & Improvement District No. 2 | | | | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 37483 | | | | <i>PCW Revision October 30, 2008</i> | |
| Reg. Ent. Reference No. RN101610491 | | | | | |
| Media [Statute] Water Quality | | | | | |
| Enf. Coordinator Thomas Jecha | | | | | |
| Violation Number | <input type="text" value="1"/> | | | | |
| Rule Cite(s) | Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and 305.125(5), and Texas Pollutant Discharge Elimination System Permit No. WQ0011090001, Permit Conditions No. 2.d. and Operational Requirements No. 1. | | | | |
| Violation Description | Failed to prevent the unauthorized discharge of sludge and floating solids. Specifically, samples collected from the receiving stream near and downstream of Outfall 001 revealed elevated levels of total coliform, ammonia nitrogen, total kjeldahl nitrogen, nitrite, ortho phosphate, and total phosphorus (see attached table). | | | | |
| Base Penalty | | | | <input type="text" value="\$10,000"/> | |
| >> Environmental, Property and Human Health Matrix | | | | | |
| OR | Harm | | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> | |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | | |
| | | | | Percent <input type="text" value="10%"/> | |
| >> Programmatic Matrix | | | | | |
| | | Falsification | Major | Moderate | Minor |
| | | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | | | | Percent <input type="text" value="0%"/> | |
| Matrix Notes | Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation. | | | | |
| Adjustment | | | | <input type="text" value="\$9,000"/> | |
| | | | | <input type="text" value="\$1,000"/> | |
| Violation Events | | | | | |
| Number of Violation Events | | <input type="text" value="1"/> | Number of violation days <input type="text" value="73"/> | | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | | | |
| | weekly | <input type="text"/> | | | |
| | monthly | <input type="text"/> | | | |
| | quarterly | <input checked="" type="checkbox"/> | | | |
| | semiannual | <input type="text"/> | | | |
| | annual | <input type="text"/> | | | |
| | single event | <input type="text"/> | | | |
| | | | | Violation Base Penalty <input type="text" value="\$1,000"/> | |
| One quarterly event is recommended from the February 3, 2009 investigation until the March 9, 2009 compliance date. | | | | | |
| Good Faith Efforts to Comply | | <input type="text" value="25.0%"/> | Reduction | | |
| | | <input type="text"/> | <input type="text"/> | | |
| | | <input type="text"/> | <input type="text"/> | | |
| | | <input checked="" type="checkbox"/> | <input type="text"/> | | |
| | | <input type="text"/> | <input type="text"/> | | |
| | | <input type="text"/> | <input type="text"/> | | |
| | | <input type="text"/> | <input type="text"/> | | |
| Notes | | The Respondent achieved compliance on March 9, 2009. | | | |
| Violation Subtotal | | | | <input type="text" value="\$750"/> | |
| Economic Benefit (EB) for this violation | | Statutory Limit Test | | | |
| Estimated EB Amount | | <input type="text" value="\$37"/> | Violation Final Penalty Total <input type="text" value="\$2,750"/> | | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | <input type="text" value="\$2,750"/> | |

Economic Benefit Worksheet

Respondent: Bell County Water Control & Improvement District No. 2
Case ID No.: 37483
Reg. Ent. Reference No.: RN101610491
Media: Water Quality
Violation No.: 1

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost <small>No commas or \$</small> | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|

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 | \$8,000 | 3-Feb-2009 | 9-Mar-2009 | 0.09 | \$37 | n/a | \$37 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$100 | 3-Feb-2009 | 10-Feb-2009 | 0.02 | \$0 | n/a | \$0 |

Notes for DELAYED costs
 Estimated cost to remediate the receiving stream and develop a solids management plan to address management and retention of solids within the plant. The date required is the investigation date and the final dates are the dates 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 \$8,100

TOTAL \$37

**BELL COUNTY WCID No. 2
Docket No. 2009-0554-MWD-E
Violation No. 1**

**Analysis Results for Samples Collected from the Receiving Stream on
February 3, 2009**

| Sample Location (Relative to Outfall 001) | E. coli Total Coliform CFU/100 Milliliters | Ammonia- Nitrogen (mg/L) | Total Kjeldahl Nitrogen (mg/L) | Nitrite (mg/L) | Ortho Phosphate (mg/l) | Total Phosphorus (mg/L) |
|--|---|---|---|---------------------------|---------------------------------------|--|
| 50 Yards Upstream | 9.7 | 0.16 | 0.87 | <0.02 | 0.09 | 0.10 |
| at Outfall 001 | 62.7 | 10.2 | 10.6 | 1.94 | 3.62 | 3.84 |
| 100 Yards Downstream | 920.8 | 15.5 | 16.3 | <0.02 | 20.0 | 21.2 |
| 300 Yards Downstream | 1553.1 | 11.4 | 15.1 | 0.03 | 10.9 | 12.4 |

CFU = Colony Forming Units, mg/L = milligrams per liter

Compliance History Report

Customer/Respondent/Owner-Operator: CN600737522 Bell County Water Control & Improvement District No. 2 Classification: AVERAGE Rating: 3.39

Regulated Entity: RN101610491 ACADEMY PLANT Classification: AVERAGE Site Rating: 4.52

ID Number(s):
WASTEWATER PERMIT WQ0011090001
WASTEWATER PERMIT TPDES0020249
WASTEWATER PERMIT TX0020249

Location: immed W of SH 95 approx 700 ft S of intersect of SH 95 & FM 436, Bell Co. Tx.

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: April 15, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 15, 2004 to April 15, 2009

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

Name: Thomas Jecha Phone: 239 - 2576

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.

Effective Date: 11/03/2006 ADMINORDER 2005-0474-MWD-E
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Sludge Provisions, Section II. F Pg.22 PERMIT
Description: Failure to submit a complete Annual Sludge Report to the TCEQ by September 1 of each year.
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: Operational Requirements, No. 1 Pg. 9 PERMIT
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(c)
Rqmt Prov: Monitoring and Reporting Req., N.3c P.5 PERMIT
Description: Failed to maintain chain of custody records, QA/QC records for effluent samples and dissolved oxygen calibration logs
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Monitoring & Reporting Req., N.7cP.6 PERMIT
Description: Failure to report 40% noncompliances to the TCEQ within the required notification period.

Classification: Moderate

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

Rqmt Prov: Final Effluent Limitations PERMIT

Description: Failure by the permittee to prevent the discharge and accumulation of sludge in the receiving water.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11

Rqmt Prov: Monitoring & Reporting Req., N.2P.4 PERMIT

Description: Failure by the permittee to comply with test procedures specified in 319.11 - 319.12, by failing to properly conduct residual chlorine analysis

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11

Rqmt Prov: Monitoring & Reporting Req., N.2 P.4 PERMIT

Description: Failure to comply with procedures specified in 30 TAC 319.11 regarding usage of a flow measurement device that meets the US Bureau of Reclamation Water Measurement Manual.

Classification: Moderate

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

Rqmt Prov: 11091001 OP

Description: Failure to comply with permitted effluent limits

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 | 04/21/2004 | (352837) |
| 2 | 04/28/2004 | (352836) |
| 3 | 06/17/2004 | (297006) |
| 4 | 07/21/2004 | (352838) |
| 5 | 09/17/2004 | (352839) |
| 6 | 09/27/2004 | (352840) |
| 7 | 10/19/2004 | (352841) |
| 8 | 11/19/2004 | (382183) |
| 9 | 12/22/2004 | (382184) |
| 10 | 01/20/2005 | (382185) |
| 11 | 02/11/2005 | (346941) |
| 12 | 02/18/2005 | (340926) |
| 13 | 03/09/2005 | (420040) |
| 14 | 03/17/2005 | (420041) |
| 15 | 03/24/2005 | (375479) |
| 16 | 04/22/2005 | (420042) |
| 17 | 05/05/2005 | (420043) |
| 18 | 06/13/2005 | (420044) |
| 19 | 07/11/2005 | (441159) |
| 20 | 08/22/2005 | (441160) |
| 21 | 09/15/2005 | (441161) |
| 22 | 10/14/2005 | (468994) |
| 23 | 11/18/2005 | (468995) |
| 24 | 12/14/2005 | (468997) |

| | | |
|----|------------|----------|
| 25 | 01/10/2006 | (468998) |
| 26 | 02/10/2006 | (468992) |
| 27 | 03/14/2006 | (468993) |
| 28 | 04/14/2006 | (498564) |
| 29 | 05/23/2006 | (498565) |
| 30 | 06/15/2006 | (498566) |
| 31 | 07/12/2006 | (520566) |
| 32 | 09/08/2006 | (520567) |
| 33 | 09/08/2006 | (520568) |
| 34 | 10/11/2006 | (576090) |
| 35 | 11/07/2006 | (576091) |
| 36 | 12/11/2006 | (607711) |
| 37 | 01/09/2007 | (576092) |
| 38 | 02/14/2007 | (576085) |
| 39 | 03/07/2007 | (576086) |
| 40 | 04/10/2007 | (576087) |
| 41 | 05/09/2007 | (576088) |
| 42 | 06/08/2007 | (576089) |
| 43 | 07/09/2007 | (607708) |
| 44 | 09/10/2007 | (607710) |
| 45 | 09/13/2007 | (607709) |
| 46 | 10/11/2007 | (619782) |
| 47 | 11/14/2007 | (619783) |
| 48 | 12/11/2007 | (619784) |
| 49 | 01/08/2008 | (672290) |
| 50 | 02/05/2008 | (672289) |
| 51 | 03/07/2008 | (690204) |
| 52 | 04/07/2008 | (690205) |
| 53 | 05/13/2008 | (690206) |
| 54 | 06/06/2008 | (711013) |
| 55 | 07/08/2008 | (711014) |
| 56 | 08/07/2008 | (711015) |
| 57 | 09/09/2008 | (711016) |
| 58 | 09/30/2008 | (727676) |
| 59 | 10/10/2008 | (727677) |
| 60 | 11/13/2008 | (727678) |
| 61 | 04/06/2009 | (726802) |

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

| | | | |
|--------------|--|----------|--------------------------|
| Date: | 06/30/2004 | (352838) | CN600737522 |
| 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 | (352841) | CN600737522 |
| 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: | 10/28/2004 | (335089) | CN600737522 |
| Self Report? | NO | | Classification: Minor |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirements No. 1, Pg. 9 PERMIT | | |
| Description: | Failure by the permittee to prevent the discharge of wastewater into or adjacent to | | |

water in the state without authorization from the Commission.

Date: 11/30/2004 (382184) CN600737522
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: 12/31/2004 (382185) CN600737522
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: 01/31/2005 (420040) CN600737522
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: 02/28/2005 (420041) CN600737522
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: 03/31/2005 (420042) CN600737522
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: 04/30/2005 (420043) CN600737522
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: 06/30/2005 (441159) CN600737522
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: 07/31/2005 (441160) CN600737522
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: 09/30/2005 (468994) CN600737522
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: 10/31/2005 (468995) CN600737522
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 (468998) CN600737522
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 (468992) CN600737522

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|--------------|--|-----------------|----------|
| 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: | 03/31/2006 (498564) | CN600737522 | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 05/31/2006 (498566) | CN600737522 | |
| 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 (520566) | CN600737522 | |
| 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: | 07/31/2006 (520567) | CN600737522 | |
| 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: | 08/31/2006 (520568) | CN600737522 | |
| 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: | 09/30/2006 (576090) | CN600737522 | |
| 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: | 10/31/2006 (576091) | CN600737522 | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 11/30/2006 (607711) | CN600737522 | |
| 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: | 12/31/2006 (576092) | CN600737522 | |
| 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: | 02/28/2007 (576086) | CN600737522 | |
| 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 (576087) | CN600737522 | |
| 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: 04/30/2007 (576088) CN600737522
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2007 (576089) CN600737522
 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: 06/30/2007 (607708) CN600737522
 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: 08/31/2007 (607710) CN600737522
 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: 10/31/2007 (619783) CN600737522
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2008 (672289) CN600737522
 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: 06/30/2008 (711014) CN600737522
 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: 07/31/2008 (727676) CN600737522
 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: 09/30/2008 (727677) CN600737522
 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: 12/31/2008 CN600737522
 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
BELL COUNTY WATER CONTROL
& IMPROVEMENT DISTRICT NO. 2
RN101610491

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0554-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 Bell County Water Control & Improvement District No. 2 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located immediately west of State Highway 95 approximately 700 feet south of the intersection of State Highway 95 and Farm-to-Market Road 436 in Bell 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 April 9, 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 Two Thousand Seven Hundred Fifty Dollars (\$2,750) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The Respondent has paid Two Thousand Two Hundred Dollars (\$2,200) of the administrative penalty and Five Hundred Fifty Dollars (\$550) 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. Completed removal of sludge from the receiving stream using a vacuum truck on March 9, 2009; and
 - b. Developed and implemented a solids management plan on February 10, 2009 that addresses the management and retention of solids within the plant to prevent the discharge of floating solids and sludge into the receiving stream.
 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 and operator of the Facility, the Respondent is alleged to have failed to prevent the unauthorized discharge of sludge and floating solids, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(5), and Texas Pollutant Discharge Elimination System Permit No. WQ0011090001, Permit Conditions No. 2.d. and Operational Requirements No. 1, as documented during an investigation conducted on February 3, 2009. Specifically, samples collected from the receiving stream near and downstream of Outfall 001 revealed elevated levels of total coliform, ammonia nitrogen, total kjeldahl nitrogen, nitrite, ortho phosphate, and total phosphorus (see table below).

| Analysis Results for Samples Collected from the Receiving Stream on February 3, 2009 | | | | | | |
|---|--|--------------------------------|---|-------------------|------------------------------|-------------------------------|
| Sample Location (Relative to Outfall 001) | E. coli Total Coliform CFU/100 Milliliters | Ammonia- Nitrogen (mg/L) | Total Kjeldahl Nitrogen (mg/L) | Nitrite (mg/L) | Ortho Phosphate (mg/l) | Total Phosphorus (mg/L) |
| 50 Yards Upstream | 9.7 | 0.16 | 0.87 | <0.02 | 0.09 | 0.10 |
| at Outfall 001 | 62.7 | 10.2 | 10.6 | 1.94 | 3.62 | 3.84 |
| 100 Yards Downstream | 920.8 | 15.5 | 16.3 | <0.02 | 20.0 | 21.2 |
| 300 Yards Downstream | 1553.1 | 11.4 | 15.1 | 0.03 | 10.9 | 12.4 |

CFU = Colony Forming Units, mg/L = milligrams per liter

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: Bell County Water Control & Improvement District No. 2, Docket No. 2009-0554-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

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

John S. Sullivan
For the Executive Director

7/13/2009
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.

Billy K. Easley
Signature

5-20-09
Date

Billy K. Easley
Name (Printed or typed)
Authorized Representative of
Bell County Water Control & Improvement District No. 2

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.

