

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2009-0535-MWD-E **TCEQ ID:** RN101279396 **CASE NO.:** 37459**RESPONDENT NAME:** Kopperl 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: Kopperl ISD, located approximately 1,800 feet east-northeast of the intersection of Farm-to-Market Road 56 and the Burlington Northern/Santa Fe Railroad, Bosque County</p> <p>TYPE OF OPERATION: Domestic 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 September 21, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1460; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Richard Derrick, Maintenance Director, Kopperl Independent School District, P.O. Box 67, Kopperl, Texas 76652 Mr. Kenneth Bateman, Superintendent, Kopperl Independent School District, P.O. Box 67, Kopperl, Texas 76652 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: March 17, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 3, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permit effluent limits for biochemical oxygen demand, total suspended solids, dissolved oxygen, and total chlorine residual [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013982001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].</p>	<p>Total Assessed: \$6,600</p> <p>Total Deferred: \$1,320 <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: \$5,280</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 TPDES Permit No. WQ0013982001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0013982001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	3-Apr-2009			
	PCW	15-Apr-2009	Screening	15-Apr-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Kopperl Independent School District				
Reg. Ent. Ref. No.	RN101279396				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37459	No. of Violations	1		
Docket No.	2009-0535-MWD-E	Order Type	1660		
Media Program(s)	Water Quality	Government/Non-Profit	Yes		
Multi-Media		Enf. Coordinator	Jeremy Escobar		
		EC's Team	Enforcement Team 3		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	70.0% Enhancement	Subtotals 2, 3, & 7 \$2,800
Notes	The penalty is enhanced due to 14 months of self-reported effluent violations.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$1,287	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,800
OTHER FACTORS AS JUSTICE MAY REQUIRE	-2.9% Adjustment	-\$200
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes	Recommended reduction in penalty so that monthly self-reported violations do not overly impact the penalty amount.	
	Final Penalty Amount	\$6,600
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,600
DEFERRAL	20.0% Reduction Adjustment	-\$1,320
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		\$5,280

Screening Date 15-Apr-2009

Docket No. 2009-0535-MWD-E

PCW

Respondent Kopperl Independent School District

Policy Revision 2 (September 2002)

Case ID No. 37459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101279396

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	14	70%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 70%

>> 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

The penalty is enhanced due to 14 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 70%

Screening Date 15-Apr-2009	Docket No. 2009-0535-MWD-E	PCW		
Respondent Kopper Independent School District	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37459	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101279396				
Media [Statute] Water Quality				
Enf. Coordinator Jeremy Escobar				
Violation Number 1				
Rule Cite(s)	Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013982001 Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6			
Violation Description	Failed to comply with the permit effluent limits, as documented during a record review conducted on March 17, 2009. See attached table.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual	<input type="checkbox"/> Major <input type="checkbox"/> Moderate <input checked="" type="checkbox"/> Minor	Percent 10%	
	Potential	<input type="checkbox"/> Major <input type="checkbox"/> Moderate <input type="checkbox"/> Minor		
>> Programmatic Matrix				
	Falsification	Major Moderate Minor	Percent 0%	
	<input type="checkbox"/>	<input type="checkbox"/> Major <input type="checkbox"/> Moderate <input type="checkbox"/> Minor		
Matrix Notes	<div style="border: 1px solid black; padding: 5px;"> A simplified model was used to evaluate biochemical oxygen demand ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS"), dissolved oxygen, and total chlorine residual values 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 levels that are protective of human health or environmental receptors. </div>			
Adjustment		\$9,000		
		\$1,000		
Violation Events				
Number of Violation Events		4	Number of violation days	
		181		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty \$4,000	
	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"/>		
Four quarterly events are recommended.				
Good Faith Efforts to Comply		0.0% Reduction		\$0
		Before NOV	NOV to EDPRP/Settlement	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal			\$4,000	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$1,287	Violation Final Penalty Total	
			\$6,600	
This violation Final Assessed Penalty (adjusted for limits)			\$6,600	

Economic Benefit Worksheet

Respondent: Kopper Independent School District
Case ID No.: 37459
Reg. Ent. Reference No.: RN101279396
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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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	29-Feb-2008	31-Dec-2009	1.84	\$61	\$1,226	\$1,287
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the 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	\$10,000	TOTAL	\$1,287
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Effluent Violation Table

Kopperl Independent School District

Docket No. 2009-0535-MWD-E

TPDES Permit No. WQ0013982001

Permitted Effluent Limits	BOD Daily Average 10 mg/l	TSS Daily Average 15 mg/l	Dissolved Oxygen 4.0 mg/l min.	Total Chlorine Residual 1.0 mg/l min.
February 2008	C	C	3.9	C
June 2008	C	C	C	0.1
July 2008	C	17	3.4	C
August 2008	C	17	C	C
September 2008	C	21	C	0.3
December 2008	12	19	C	C

BOD = Biochemical Oxygen Demand	C = compliant	TSS = Total Suspended Solids	min = Minimum	mg/l = milligrams per liter
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600706394	Kopperl Independent School District	Classification: AVERAGE	Rating: 0.57
Regulated Entity:	RN101279396	KOPPERL ISD	Classification: AVERAGE	Site Rating: 0.57
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		0180059
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		0180059
	WASTEWATER	PERMIT		WQ0013982001
	WASTEWATER	PERMIT		TPDES0116661
	WASTEWATER	PERMIT		TX0116661
	WATER LICENSING	LICENSE		0180059

Location: Located approximately 1,800 feet east-northeast of the intersection of Farm-to-Market Road 56 and the Burlington Northern/Santa Fe Railroad in Bosque County, Texas

TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: May 19, 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: Jeremy Escobar Phone: 239 - 1480

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	05/06/2004	(366129)
2	06/04/2004	(366130)
3	07/09/2004	(366131)
4	08/06/2004	(366132)
5	09/09/2004	(366133)
6	10/08/2004	(366134)
7	11/09/2004	(389562)
8	12/09/2004	(389563)
9	01/07/2005	(389564)
10	02/11/2005	(389560)
11	03/10/2005	(389561)
12	04/08/2005	(427102)
13	05/24/2005	(427103)
14	06/10/2005	(427104)
15	07/05/2005	(427105)
16	08/19/2005	(447235)
17	09/19/2005	(447236)
18	10/06/2005	(491657)
19	11/04/2005	(491658)
20	12/15/2005	(491659)
21	01/06/2006	(491660)
22	02/10/2006	(491655)

23	03/15/2006	(491656)
24	04/13/2006	(505871)
25	05/09/2006	(505872)
26	06/09/2006	(505873)
27	07/18/2006	(528119)
28	09/15/2006	(528121)
29	09/22/2006	(528120)
30	10/18/2006	(630419)
31	11/13/2006	(630421)
32	12/11/2006	(630423)
33	01/11/2007	(630425)
34	02/08/2007	(630411)
35	03/21/2007	(630412)
36	04/20/2007	(543818)
37	04/20/2007	(630413)
38	05/03/2007	(630414)
39	06/25/2007	(630415)
40	07/27/2007	(630416)
41	09/17/2007	(630417)
42	09/17/2007	(630418)
43	10/24/2007	(630420)
44	11/28/2007	(630422)
45	12/20/2007	(630424)
46	01/17/2008	(677013)
47	02/20/2008	(677012)
48	03/26/2008	(695631)
49	04/10/2008	(695632)
50	05/20/2008	(695633)
51	06/25/2008	(717179)
52	07/11/2008	(717180)
53	07/31/2008	(732550)
54	08/08/2008	(717181)
55	09/08/2008	(717182)
56	09/30/2008	(732551)
57	10/15/2008	(732552)
58	11/10/2008	(732553)
59	12/08/2008	(732554)
60	04/03/2009	(738953)

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

Date: 05/31/2004 (366130) CN600706394

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: 08/31/2004 (366133) CN600706394

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: 10/31/2004 (389562) CN600706394

Self Report? YES Classification Moderate

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

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

Date: 04/30/2006 (505872) CN600706394

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 (505873) CN600706394

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 (528119) CN600706394

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 (630416)	CN600706394	
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 (630418)	CN600706394	
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 (695631)	CN600706394	
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 (717180)	CN600706394	
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 (717181)	CN600706394	
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:	08/31/2008 (717182)	CN600706394	
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 (732552)	CN600706394	
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	CN600706394	
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).

....

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
KOPPERL INDEPENDENT SCHOOL
DISTRICT
RN101279396

§
§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0535-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 Kopperl 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 domestic wastewater treatment facility approximately 1,800 feet east-northeast of the intersection of Farm-to-Market Road 56 and the Burlington Northern/Santa Fe Railroad in Bosque 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 April 8, 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 Six Hundred Dollars (\$6,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Two Hundred Eighty Dollars (\$5,280) of the administrative penalty and One Thousand Three Hundred Twenty Dollars (\$1,320) 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 the permit effluent limits, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013982001 Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, as documented during a record review conducted on March 17, 2009 and shown in the table below:

Effluent Violation Table				
Permitted Effluent Limits	BOD Daily Average 10 mg/l	TSS Daily Average 15 mg/l	Dissolved Oxygen 4.0 mg/l min.	Total Chlorine Residual 1.0 mg/l min.
February 2008	C	C	3.9	C
June 2008	C	C	C	0.1
July 2008	C	17	3.4	C
August 2008	C	17	C	C
September 2008	C	21	C	0.3
December 2008	12	19	C	C

BOD = Biochemical Oxygen Demand	C = compliant	TSS = Total Suspended Solids	min = Minimum	mg/l = milligrams per liter
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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: Kopperl Independent School District, Docket No. 2009-0535-MWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013982001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent

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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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

Joel S. Edlin
For the Executive Director

8/21/2009
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.

Kenneth Bateman
Signature

07/09/09
Date

Kenneth Bateman
Name (Printed or typed)
Authorized Representative of
Kopperl Independent School District

Superintendent
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.