

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0304-MWD-E **TCEQ ID:** RN103138335 **CASE NO.:** 37225

RESPONDENT NAME: Harris County Municipal Utility District No. 167

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: Harris County MUD No. 167 WWTP, located 1.25 miles north of the intersection of Barker-Cypress Road and Clay Road and approximately one mile southwest of the intersection of Gummert Road and Barker-Cypress Road, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 June 15, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Ms. Verneath L. Hronas, President, Harris County Municipal Utility District No. 167, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027 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: December 8, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 6, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for total suspended solids, ammonia nitrogen, and flow [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012834001 Interim II Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$3,740</p> <p>Total Deferred: \$748 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Duc) to General Revenue: \$2,992</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. WQ0012834001, 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).: TPDES WQ0012834001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	9-Feb-2009	Screening	2-Mar-2009	EPA Due	
	PCW	8-Mar-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Harris County Municipal Utility District No. 167		
Reg. Ent. Ref. No.	RN103138335		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37225	No. of Violations	1
Docket No.	2009-0304-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Pamela Campbell
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$2,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	87.0% Enhancement	Subtotals 2, 3, & 7	\$1,740
Notes	The Respondent has one NOV for unrelated violations, one NOV for the same/similar violations, and has 16 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	\$583		
Approx. Cost of Compliance	\$5,000	*Capped at the Total EB \$ Amount	
SUM OF SUBTOTALS 1-7		Final Subtotal	\$3,740
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$3,740
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$3,740
DEFERRAL	20.0% Reduction	Adjustment	-\$748
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$2,992

Screening Date 2-Mar-2009

Docket No. 2009-0304-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 167

Policy Revision 2 (September 2002)

Case ID No. 37225

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103138335

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

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>	17	85%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<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) 87%

>> **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 Respondent has one NOV for unrelated violations, one NOV for the same/similar violations, and has 16 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 87%

Screening Date 2-Mar-2009 **Docket No.** 2009-0304-MWD-E **PCW**
Respondent Harris County Municipal Utility District No. 167 *Policy Revision 2 (September 2002)*
Case ID No. 37225 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103138335
Media [Statute] Water Quality
Enf. Coordinator Pamela Campbell
Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES"): Permit No. WQ0012834001 Interim II Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permitted effluent limits as shown in the attached table.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was utilized to evaluate the values of ammonia nitrogen ("NH₃-N"), biochemical oxygen demand, and flow to determine whether the discharged amounts of pollutant (NH₃-N) exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment. Total suspended solids were also evaluated.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	X
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
single event	<input type="checkbox"/>	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$583

Statutory Limit Test

Violation Final Penalty Total \$3,740

This violation Final Assessed Penalty (adjusted for limits) \$3,740

Economic Benefit Worksheet

Respondent Harris County Municipal Utility District No. 167
Case ID No. 37225
Reg. Ent. Reference No. RN103138335
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
--	-----------	---------------	------------	-----	----------------	---------------	-----------

Item Description No commas or \$

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	1-Apr-2008	30-Nov-2009	1.67	\$28	\$555	\$583
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: This is the estimated cost to evaluate the treatment units and determine the causes for the Facility's noncompliance. The date required is the date the noncompliance began and the final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$5,000	TOTAL	\$583
----------------------------	---------	--------------	-------

EFFLUENT VIOLATION TABLE

**Harris County Municipal Utility District No. 167
 TPDES Permit No. WQ0012834001
 Docket No. 2009-0304-MWD-E**

Permitted Effluent Limits	Monitoring Period End Date			
	April-08	May-08	June-08	August-08
TSS daily avg. loading 68 lbs/day	c	71.52	86.61	c
TSS daily avg. conc. 15 mg/L	c	c	16.5	c
NH ₃ -N daily avg. loading 9.1 lbs/day	17.12	17.47	c	c
NH ₃ -N daily avg. conc. 2 mg/L	5.78	3.61	c	2.08
NH ₃ -N max. single grab 10 mg/L	16.7	12.3	c	c
Flow daily avg. 0.544 MGD	c	0.672	0.640	c

avg. = average

c = compliant

conc. = concentration

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per liter

MGD = million gallons per day

NH₃-N = ammonia nitrogen

TSS = total suspended solids

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600739031	Harris County Municipal Utility District NO. 167	Classification: AVERAGE	Rating: 2.65
Regulated Entity:	RN103136335	HARRIS COUNTY MUD NO. 167 WWTP	Classification: AVERAGE	Site Rating: 0.89
ID Number(s):	WASTEWATER	PERMIT	WQ0012834001	
	WASTEWATER	PERMIT	TPDES0094307	
	WASTEWATER	PERMIT	TX0094307	
	WASTEWATER LICENSING	LICENSE	WQ0012834001	
Location:	LOCATED 1.25 MILES N OF THE INTERSECTION OF BARKER-CYPRESS RD AND CLAY RD AND APPR ONE MILE SW OF THE INTERSECTION OF GUMMERT RD AND BARKER-CYPRESS RD, HARRIS CO, TX			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	February 17, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 17, 2004 to February 17, 2009			
TCEQ Staff Member to Contact for Additional Information:	Regarding this Compliance History			
Name:	Pamela Campbell	Phone:	239 - 4493	

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

Components (Multimedia) for the Site :

- | | |
|----|--|
| A. | Final Enforcement Orders, court judgments, 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	02/20/2004	(319677)
2	03/19/2004	(319678)
3	04/20/2004	(362489)
4	05/03/2004	(267227)
5	05/20/2004	(362490)
6	06/17/2004	(276020)
7	06/21/2004	(319681)
8	07/20/2004	(362491)
9	08/27/2004	(362492)
10	09/20/2004	(362493)
11	10/22/2004	(362494)
12	11/22/2004	(387744)
13	12/20/2004	(387745)
14	01/20/2005	(387746)
15	02/15/2005	(387742)
16	03/21/2005	(387743)
17	04/20/2005	(425424)
18	05/19/2005	(425425)
19	06/23/2005	(425426)
20	07/20/2005	(445996)
21	08/23/2005	(445997)
22	09/20/2005	(445998)
23	10/19/2005	(478076)
24	11/17/2005	(478077)
25	12/20/2005	(478078)
26	01/20/2006	(478079)
27	02/21/2006	(478074)
28	03/20/2006	(478075)
29	04/20/2006	(504432)
30	05/24/2006	(504433)
31	06/20/2006	(504434)
32	07/28/2006	(526758)
33	07/31/2006	(481081)
34	08/21/2006	(526759)
35	09/29/2006	(526760)
36	10/23/2006	(626527)
37	11/27/2006	(626529)
38	12/22/2006	(626530)
39	01/22/2007	(626531)
40	02/27/2007	(626519)
41	03/30/2007	(539536)
42	04/20/2007	(626520)
43	05/22/2007	(561015)

44 05/22/2007 (626521)
 45 05/22/2007 (626522)
 46 07/13/2007 (626523)
 47 08/01/2007 (626524)
 48 09/13/2007 (626525)
 49 10/02/2007 (626526)
 50 11/26/2007 (626528)
 51 03/05/2008 (675937)
 52 05/05/2008 (694309)
 53 05/05/2008 (694315)
 54 05/05/2008 (694316)
 55 05/07/2008 (694312)
 56 05/07/2008 (694314)
 57 05/15/2008 (694308)
 58 05/15/2008 (694317)
 59 05/20/2008 (694310)
 60 06/20/2008 (694311)
 61 07/21/2008 (694313)
 62 08/29/2008 (715703)
 63 09/29/2008 (715704)
 64 10/20/2008 (715705)
 65 11/21/2008 (731386)
 66 12/18/2008 (731387)
 67 01/20/2009 (731388)
 68 02/06/2009 (710272)

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

Date: 05/03/2004 (267227)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
 Description: Failure to mount the staff gauge at a location which will provide accurate flow measurements.

Date: 05/03/2004 (267227)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to prevent mixed liquor from spashing over the south side of the north aeration basin.

Date: 08/31/2005 (445998)
 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 (526760)
 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 (628530)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2007 (626520)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/30/2007 (539538)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(d)
 Description: Failure to properly operate and maintain the clarifier.

Date: 03/30/2007 (539538)
 Self Report? NO Classification: Major
 Citation: TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(1)
 TWC Chapter 26 26.121(a)(2)
 TWC Chapter 26 26.121(a)(3)
 Description: Failure to prevent the unauthorized discharge of untreated or partially treated wastewater from the wastewater treatment plant and its collection system.

Date: 03/30/2007 (539538)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Monitoring & Reporting Req'ment No. 7(a) OP
 Description: Failure to submit a noncompliance notification within twenty four hours by phone or fax or a written notification within five working days for the unauthorized discharge of partially treated wastewater from the aeration basins that occurred

on or around February 3, 2007.

Date: 03/31/2007 (626521)
 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: 04/30/2007 (626522)
 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: 05/31/2007 (626523)
 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: 06/30/2007 (626524)
 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: 07/31/2007 (626525)
 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 (626526)
 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: 04/30/2008 (694310)
 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: 05/31/2008 (694311)
 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 (694313)
 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 (715704)
 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: 10/31/2008 (731386)
 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 (731388)
 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
HARRIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 167
RN103138335

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0304-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 Harris County Municipal Utility District No. 167 ("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 1.25 miles north of the intersection of Barker-Cypress Road and Clay Road and approximately one mile southwest of the intersection of Gummert Road and Barker-Cypress Road in Harris 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 February 11, 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 Three Thousand Seven Hundred Forty Dollars (\$3,740) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Two Thousand Nine Hundred Ninety-Two Dollars (\$2,992) of the administrative penalty and Seven Hundred Forty-Eight Dollars (\$748) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits as shown in the following table, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012834001 Interim II Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on December 8, 2008.

EFFLUENT VIOLATION TABLE				
Permitted Effluent Limits	Monitoring Period End Date			
	April-08	May-08	June-08	August-08
TSS daily avg. loading 68 lbs/day	c	71.52	86.61	c
TSS daily avg. conc. 15 mg/L	c	c	16.5	c
NH ₃ -N daily avg. loading 9.1 lbs/day	17.12	17.47	c	c
NH ₃ -N daily avg. conc. 2 mg/L	5.78	3.61	c	2.08
NH ₃ -N max. single grab 10 mg/L	16.7	12.3	c	c
Flow daily avg. 0.544 MGD	c	0.672	0.640	c

avg. = average

c = compliant

conc. = concentration

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per liter

MGD = million gallons per day

NH₃-N = ammonia nitrogen

TSS = total suspended solids

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: Harris County Municipal Utility District No. 167, Docket No. 2009-0304-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. WQ0012834001, 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486:

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Harris County Municipal Utility District No. 167

DOCKET NO. 2009-0304-MWD-E

Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallier
For the Executive Director

11/13/2009
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.

Verneth L. Hronas
Signature

6-4-2009
Date

VERNETH L. HRONAS
Name (Printed or typed)
Authorized Representative of
Harris County Municipal Utility District No. 167

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.