

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1373-MWD-E **TCEQ ID:** RN101611366 **CASE NO.:** 38226

RESPONDENT NAME: Military Highway Water Supply Corporation

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: MHWSC Progreso WWTP, located approximately 2.5 miles northeast of the intersection of Farm-to-Market Road 1015 and United States Highway 281, Hidalgo County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 21, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Ms. Elodia Diaz, President, Military Highway Water Supply Corporation, P.O. Box 250, Progreso, Texas 78579 Mr. Amado E. Salinas, Jr., General Manager, Military Highway Water Supply Corporation, P.O. Box 250, Progreso, Texas 78579 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: July 1, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 21, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for total suspended solids and biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013462001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$7,200</p> <p>Total Deferred: \$1,440 <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: \$5,760</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:</p> <p>a. Within 90 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit a report to the Commission documenting the progress of the corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits. The reports shall be submitted on a semi-annual basis until written certification of compliance with Ordering Provision b is submitted; and</p> <p>b. Within 690 days after the effective date of this Agreed Order, submit written certification of compliance with effluent limits of TPDES Permit No. WQ0013462001, 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): WQ0013462001

Penalty Calculation Worksheet (PCW)

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

TCEQ DATES	Assigned	23-Aug-2009	Screening	24-Aug-2009	EPA Due	
	PCW	26-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Military Highway Water Supply Corporation		
Reg. Ent. Ref. No.	RN101611366		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38226	No. of Violations	1
Docket No.	2009-1373-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		<i>Subtotal 1</i>	\$3,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	140.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$4,200
Notes	An enhancement is recommended due to 24 self-reported monthly effluent violations and one agreed order with denial language.		
Culpability	No 0.0% Enhancement	<i>Subtotal 4</i>	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		<i>Subtotal 5</i>	\$0
Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$748,479	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$3,900,000		
SUM OF SUBTOTALS 1-7		<i>Final Subtotal</i>	\$7,200
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			
		<i>Final Penalty Amount</i>	\$7,200
STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i>	\$7,200
DEFERRAL	20.0%	Reduction <i>Adjustment</i>	-\$1,440
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			\$5,760

Screening Date 24-Aug-2009

Docket No. 2009-1373-MWD-E

PCW

Respondent Military Highway Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38226

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611366

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of..	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	24	120%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 140%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

An enhancement is recommended due to 24 self-reported monthly effluent violations and one agreed order with denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 140%

Screening Date 24-Aug-2009	Docket No. 2009-1373-MWD-E	PCW
Respondent Military Highway Water Supply Corporation	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 38226	<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN101611366		
Media [Statute] Water Quality		
Enf. Coordinator Lanae Foard		
Violation Number 1		
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013462001, Effluent Limitations and Monitoring Requirements No. 1	
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review on July 1, 2009 and as shown in the attached violation table.	
Base Penalty		\$10,000
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Major Moderate Minor	
Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>
Percent		10%
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
Percent		0%
Matrix Notes	A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.	
Adjustment		\$9,000
		\$1,000
Violation Events		
Number of Violation Events	3	Number of violation days
	154	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
Violation Base Penalty		\$3,000
Three quarterly events are recommended.		
Good Faith Efforts to Comply		\$0
	0.0% Reduction	
	Before NCV NCV to EDRP/ Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/> (mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal		\$3,000
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount	\$748,479	Violation Final Penalty Total
		\$7,200
This violation Final Assessed Penalty (adjusted for limits)		\$7,200

Economic Benefit Worksheet

Respondent Military Highway Water Supply Corporation
Case ID No. 38226
Reg. Ent. Reference No. RN101611366
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$3,900,000	31-Mar-2008	31-Jan-2012	3.84	\$748,479	n/a	\$748,479

Notes for DELAYED costs

Estimated cost to build a mechanical wastewater treatment facility to ensure compliance with permitted effluent limitations. Date required is the first month of noncompliance. Final date is the date 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	\$3,900,000	TOTAL	\$748,479
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EFFLUENT VIOLATION TABLE					
Military Highway Water Supply Corporation					
TPDES Permit No. WQ0013462001					
Docket No. 2009-1373-MWD-E					
Permitted Effluent Limits	Monitoring Period End Date				
	3/31/08	9/30/08	10/31/08	12/31/08	1/31/09
TSS daily avg. conc. Limit = 90 mg/L	91	105	102.4	95.2	100
BOD daily avg. Limit = 30 mg/L	c	c	c	c	32.7

TSS = total suspended solids
 BOD = biochemical oxygen demand
 conc. = concentration

avg. = average
 mg/L = milligrams per liter
 c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator: CN600868390 Military Highway Water Supply Corporation Classification: AVERAGE Rating: 6.16

Regulated Entity: RN101611366 MHWSC PROGRESO WWTP Classification: AVERAGE Site Rating: 1.79

ID Number(s): WASTEWATER PERMIT WQ0013462001
 WASTEWATER PERMIT TPDES0104612
 WASTEWATER PERMIT TX0104612
 WASTEWATER PERMIT TX0086368000
 WASTEWATER LICENSING LICENSE WQ0013492001

Location: Approximately 2.5 miles northeast of the intersection of Farm-to-Market Road 1015 and US Highway 281 in Hidalgo County, Texas

TCEQ Region: REGION 16 - HARLINGEN

Date Compliance History Prepared: August 24, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 24, 2004 to August 24, 2009

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

Name: Lanas Foard Phone: 512-238-2554

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
- | | |
|---|----------------------------|
| Effective Date: 04/14/2008 | ADMINORDER 2007-1387-MWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt. Prov: Effluent Limits PERMIT | |
| Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. | |
- 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 | 09/16/2004 | (364291) |
| 2 | 10/14/2004 | (364292) |
| 3 | 11/10/2004 | (368671) |
| 4 | 12/15/2004 | (368672) |
| 5 | 01/18/2005 | (368673) |
| 6 | 01/19/2005 | (343517) |
| 7 | 02/14/2005 | (368669) |
| 8 | 03/11/2005 | (368670) |
| 9 | 04/18/2005 | (426229) |
| 10 | 05/16/2005 | (426230) |
| 11 | 06/13/2005 | (426231) |
| 12 | 07/14/2005 | (446599) |
| 13 | 08/05/2005 | (446500) |
| 14 | 09/13/2005 | (446801) |
| 15 | 10/14/2005 | (479377) |
| 16 | 11/16/2005 | (479378) |
| 17 | 12/14/2005 | (479379) |
| 18 | 01/06/2006 | (450670) |
| 19 | 01/17/2006 | (479380) |
| 20 | 02/16/2006 | (479378) |
| 21 | 04/14/2006 | (505134) |
| 22 | 05/12/2006 | (505135) |
| 23 | 06/15/2006 | (505138) |
| 24 | 07/12/2006 | (527434) |
| 25 | 08/14/2006 | (527433) |
| 26 | 08/14/2006 | (527435) |
| 27 | 09/15/2006 | (527436) |
| 28 | 10/16/2006 | (626638) |

29	11/13/2008	(628640)
30	12/18/2005	(628642)
31	01/22/2007	(628644)
32	02/12/2007	(628630)
33	03/15/2007	(628631)
34	04/16/2007	(628632)
35	05/17/2007	(628633)
36	06/15/2007	(628634)
37	07/12/2007	(628635)
38	07/31/2007	(567654)
39	08/20/2007	(628636)
40	09/13/2007	(628637)
41	10/11/2007	(628638)
42	11/15/2007	(628641)
43	12/14/2007	(628643)
44	01/17/2008	(676479)
45	02/14/2008	(676478)
46	03/06/2008	(637986)
47	03/17/2008	(694945)
48	04/14/2008	(694946)
49	05/12/2008	(694947)
50	06/13/2008	(716439)
51	07/14/2008	(716440)
52	08/11/2008	(716441)
53	09/15/2008	(716442)
54	11/12/2008	(731908)
55	11/12/2008	(731909)
56	12/05/2008	(731910)
57	01/14/2009	(731911)
58	02/10/2009	(755301)
59	03/11/2009	(755302)
60	04/13/2009	(755303)
61	08/21/2009	(760770)

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

Date:	11/30/2004	(388672)	CN600666390	
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	(388669)	CN600666390	
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	(429230)	CN600666390	
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	(478377)	CN600666390	
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	(479378)	CN600666390	
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	(479380)	CN600666390	
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	(479373)	CN600666390	
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	(505135)	CN600666390	
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	(527434)	CN600666390	
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:	07/31/2008	(527435)	CN600666390	
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:	11/30/2009	(628642)	CN600666390	
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:	01/31/2007	(628630)	CN600666390	
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	(628631)	CN600666390	
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:	03/31/2007	(628632)	CN800666390	
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	(628633)	CN600666390	
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	(628634)	CN600666390	
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	(628635)	CN600666390	
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	(628636)	CN800666390	
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	(628637)	CN600666390	
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	(694946)	CN800666390	
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	(731908)	CN600666390	
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	(731909)	CN600666390	
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	(731911)	CN600666390	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2009		CN600666390	
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.

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
MILITARY HIGHWAY WATER
SUPPLY CORPORATION
RN101611366**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1373-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 Military Highway Water Supply Corporation ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 2.5 miles northeast of the intersection of Farm-to-Market Road 1015 and United States Highway 281 in Hidalgo 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 August 26, 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 Seven Thousand Two Hundred Dollars (\$7,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Seven Hundred Sixty Dollars (\$5,760) of the administrative penalty and One Thousand Four Hundred Forty Dollars (\$1,440) 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 permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013462001, Effluent Limitations and Monitoring Requirements No. 1 as documented during a record review conducted on July 1, 2009, and as shown in the following violation table:

EFFLUENT VIOLATION TABLE					
Permitted Effluent Limits	Monitoring Period End Date				
	3/31/08	9/30/08	10/31/08	12/31/08	1/31/09
TSS daily avg. conc. Limit = 90 mg/L	91	105	102.4	95.2	100
BOD daily avg. Limit = 30 mg/L	c	c	c	c	32.7

TSS = total suspended solids
 BOD = biochemical oxygen demand
 conc. = concentration

avg. = average
 mg/L = milligrams per liter
 c = compliant

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: Military Highway Water Supply Corporation, Docket No. 2009-1373-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 undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit a report to the Commission, documenting the progress of the corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits. The reports shall be submitted to the addresses listed in Ordering Provision No. 2.b below and shall be submitted on a semi-annual basis until written certification of compliance with Ordering Provision No. 2.b is submitted; and
 - b. Within 690 days after the effective date of this Agreed Order, submit written certification of compliance with effluent limits of TPDES Permit No. WQ0013462001, 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
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

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

John S. Squires
For the Executive Director

12/1/2009
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.

Amado E. Salinas Jr.
Signature

10/16/09
Date

Amado E. Salinas Jr.
Name (Printed or typed)
Authorized Representative of
Military Highway Water Supply Corporation

General Manager
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.

