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EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0814-MWD-E **TCEQ ID:** RN102671427 **CASE NO.:** 39716
RESPONDENT NAME: East Montgomery County Municipal Utility District No. 3

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: East Montgomery County MUD No. 3, approximately 1,000 feet west of and 1,100 feet north of the intersection of Nichols Lane and Gene Campbell Boulevard, Montgomery 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 September 27, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Andrew Persson, President, East Montgomery County Municipal Utility District No. 3, 3700 Buffalo Speedway, Suite 830, Houston, Texas 77098 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: April 5, 2010</p> <p>Date of NOV/NOE Relating to this Case: May 6, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limits for total suspended solids and ammonia nitrogen [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014379001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$1,370</p> <p>Total Deferred: \$274 <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: \$1,096</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 certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014379001, 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 limitations.</p>

Additional ID No(s): TPDES Permit No. WQ0014379001



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	10-May-2010	Screening	17-May-2010	EPA Due	
	PCW	21-May-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	East Montgomery County Municipal Utility District No. 3		
Reg. Ent. Ref. No.	RN102671427		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39716	No. of Violations	1
Docket No.	2010-0814-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Cheryl Thompson
		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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Subtotal 6

Total EB Amounts
 *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY Final Penalty

Screening Date 17-May-2010

Docket No. 2010-0814-MWD-E

PCW

Respondent East Montgomery County Municipal Utility District No. 3

Policy Revision 2 (September 2002)

Case ID No. 39716

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102671427

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

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)	7	35%
	Other written NOVs	1	2%
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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

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) 37%

>> 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 received one NOV for dissimilar violations, one NOV for same or similar violations and reported six months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 17-May-2010

Docket No. 2010-0814-MWD-E

PCW

Respondent East Montgomery County Municipal Utility District No. 3

Policy Revision 2 (September 2002)

Case ID No. 39716

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102671427

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014379001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on April 5, 2010. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				x	10%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. 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 levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 59 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$623

Statutory Limit Test

Violation Final Penalty Total \$1,370

This violation Final Assessed Penalty (adjusted for limits) \$1,370

Economic Benefit Worksheet

Respondent East Montgomery County Municipal Utility District No. 3
Case ID No. 39716
Reg. Ent. Reference No. RN102671427
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)	\$10,000	31-Dec-2009	31-Mar-2011	1.25	\$623	n/a	\$623

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the month the first non-compliant excursion was documented. 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

\$623

Compliance History Report

Customer/Respondent/Owner-Operator: CNE01477474 East Montgomery County Municipal Utility Classification: AVERAGE Rating: 1.73
 District No. 3
 Regulated Entity: RN102871427 EAST MONTGOMERY COUNTY MUD NO. 3 Classification: AVERAGE Site Rating: 0.48
 ID Number(s): DISTRICTS REGISTRATION 2802160
 WASTEWATER PERMIT WQ9014379001
 WASTEWATER PERMIT TPDESC0125300
 WASTEWATER PERMIT TX0125300
 Location: APPROXIMATELY 1,000 FEET WEST OF AND 1,100 FEET NORTH OF THE INTERSECTION OF NICHOLS LANE AND GENE CAMPBELL BOULEVARD IN MONTGOMERY COUNTY, TEXAS
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: May 17, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 17, 2005 to May 17, 2010
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Cheryl Thompson Phone: (517) 688-5888

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: 8/12/2009 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	05/23/2005	(428189)
2	06/30/2005	(428200)
3	07/22/2005	(448165)
4	08/08/2005	(448186)
5	09/28/2005	(448167)
6	10/21/2005	(493762)
7	11/29/2005	(493763)
8	12/27/2005	(493764)
9	02/01/2006	(493765)
10	03/08/2006	(493760)
11	03/30/2006	(493761)
12	04/28/2006	(505953)
13	05/12/2006	(483077)
14	06/05/2006	(505954)
15	07/03/2006	(529092)
16	07/31/2006	(529093)
17	07/31/2006	(633425)
18	08/18/2006	(481195)
19	08/28/2006	(529094)
20	09/25/2006	(529095)
21	10/26/2006	(633427)
22	10/26/2006	(633430)
23	12/08/2006	(633432)
24	01/05/2007	(633434)
25	01/29/2007	(633435)
26	03/05/2007	(633420)
27	04/02/2007	(633421)
28	04/30/2007	(633422)
29	07/09/2007	(633423)
30	07/09/2007	(633424)
31	08/13/2007	(633425)
32	08/04/2007	(633426)
33	09/24/2007	(633429)
34	11/12/2007	(633431)
35	12/03/2007	(633433)
36	01/02/2008	(677791)
37	01/31/2008	(677792)
38	03/04/2008	(688595)
39	03/28/2008	(688596)
40	04/30/2008	(688597)
41	05/27/2008	(688598)
42	06/02/2008	(641728)
43	07/25/2008	(716300)
44	08/26/2008	(716301)
45	09/31/2008	(733536)
46	09/02/2008	(716302)
47	10/07/2008	(733537)
48	10/31/2008	(733538)
49	12/04/2008	(733539)
50	12/04/2008	(733539)
51	01/02/2009	(756714)
52	01/08/2009	(721850)
53	02/08/2009	(756715)
54	03/03/2009	(773567)
55	03/23/2009	(773568)
56	04/22/2009	(773569)
57	05/15/2009	(773560)
58	08/12/2009	(773561)
59	09/14/2009	

50 10/19/2009
 51 11/19/2009
 52 12/17/2009
 53 01/15/2010
 54 02/18/2010
 55 05/07/2010

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

Date:	10/31/2005	(493763)	CN601477474	Classification:	Moderate
Self Report?	YES				
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	(493766)	CN601477474	Classification:	Moderate
Self Report?	YES				
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	(493760)	CN601477474	Classification:	Moderate
Self Report?	YES				
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:	05/12/2006	(493077)	CN601477474	Classification:	Minor
Self Report?	NO				
Citation:	14379-001 PERMIT 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to maintain compliance with the permitted effluent limits for total chlorine residual.				
Self Report?	NO			Classification:	Moderate
Citation:	14379-001 PERMIT 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to maintain compliance with the permitted effluent limits for Total Suspended Solids (TSS).				
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 312, SubChapter A 312.1 30 TAC Chapter 312, SubChapter A 312.2(a) 30 TAC Chapter 312, SubChapter A 312.4(a) 30 TAC Chapter 312, SubChapter G 312.141(a)				
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 312, SubChapter A 312.1 30 TAC Chapter 312, SubChapter A 312.2(a)				
Description:	Failure to dispose of sludge at a facility authorized to accept domestic wastewater sludge.				
Date:	06/30/2007	(633426)	CN601477474	Classification:	Moderate
Self Report?	YES				
Citation:	20 TWC Chapter 25, SubChapter A 25.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	05/02/2008	(641728)	CN601477474	Classification:	Moderate
Self Report?	NO				
Citation:	20 TWC Chapter 28, SubChapter A 28.179(a) CISPR, P. 24, No. 1 PERMIT				
Description:	Failure to prevent the introduction of pollutants, into the treatment facility, that cause interference with the wastewater treatment process.				
Self Report?	NO			Classification:	Minor
Citation:	Permit Conditions, P. B, No. 4c. PERMIT TWC Chapter 20 20.121				
Description:	Failure to submit a permit application 180 days prior to the permit expiration.				
Date:	12/31/2010		CN601477474	Classification:	Moderate
Self Report?	YES				
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:	01/31/2010		CN601477474	Classification:	Moderate
Self Report?	YES				
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				

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
EAST MONTGOMERY COUNTY
MUNICIPAL UTILITY DISTRICT
NO. 3
RN102671427

§
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§
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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0814-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 East Montgomery County Municipal Utility District No. 3 ("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 1,000 feet west of and 1,100 feet north of the intersection of Nichols Lane and Gene Campbell Boulevard in Montgomery 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 May 11, 2010.
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 One Thousand Three Hundred Seventy Dollars (\$1,370) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Ninety-Six Dollars (\$1,096) of the administrative penalty and Two Hundred Seventy-Four Dollars (\$274) 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, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014379001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on April 5, 2010 and as depicted in the table below:

	Total Suspended Solids Daily Average Concentration	Ammonia Nitrogen Daily Average Concentration	Ammonia Nitrogen Single Grab Concentration
<i>Month/Year</i>	15 mg/L	3 mg/L	15 mg/L
Dec-09	21.1	c	c
Jan-10	21.6	7.29	26.2

mg/L = milligrams per liter

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: East Montgomery County Municipal Utility District No. 3, Docket No. 2010-0814-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 certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014379001, 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 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 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:

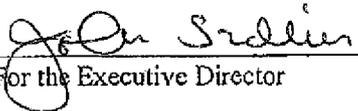
Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 10/14/2010

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date OCTOBER 2, 2010

ANDREW C. PERSSON
Name (Printed or typed)
Authorized Representative of
East Montgomery County Municipal Utility District No. 3

Title PRESIDENT

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.

