

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1793-MWD-E **TCEQ ID:** RN102183035 **CASE NO.:** 38642

RESPONDENT NAME: Orange County Water Control and Improvement District No. 1

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: Tiger Lake Plant, located 3,500 feet southwest of the intersection of Farm-to-Market Road 1132 and State Highway 105, Orange 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 March 22, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jordan Jones, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2569; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Darlene Jackson, District Manager, Orange County Water Control and Improvement District No. 1, 400 East Bolivar Street, Vidor, Texas 77662 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

DOCKET NO.: 2009-1793-MWD-E

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: September 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 29, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for carbonaceous biochemical oxygen demand, flow, ammonia nitrogen, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010875003, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$1,920</p> <p>Total Deferred: \$384 <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: \$1,536</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. WQ0010875003, 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): WQ0010875003



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Nov-2009	Screening	4-Nov-2009	EPA Due	
	PCW	4-Nov-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Orange County Water Control and Improvement District No. 1		
Reg. Ent. Ref. No.	RN102183035		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38642	No. of Violations	1
Docket No.	2009-1793-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jordan Jones
		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 Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

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

Screening Date 4-Nov-2009

Docket No. 2009-1793-MWD-E

PCW

Respondent Orange County Water Control and Improvement District I

Policy Revision 2 (September 2002)

Case ID No. 38842

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN102183035

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

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)	15	75%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended because the Respondent has 13 self reported months of effluent violations, two NOV's for same or similar violations and one Agreed Order with denial within the last five years.

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

Screening Date 4-Nov-2009

Docket No. 2009-1793-MWD-E

PCW

Respondent Orange County Water Control and Improvement District No. 1

Policy Revision 2 (September 2002)

Case ID No. 38642

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102183035

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

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. WQ0010875003, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permit effluent limits, as documented in a record review conducted on September 21, 2009. See attached Effluent Limit Violation 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 used to evaluate ammonia nitrogen ("NH3-N"), carbonaceous biochemical oxygen demand 5-day ("CBOD5"), and flow to determine whether the discharged amounts of pollutants exceeded levels 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 Number of violation days 61

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 EDRP/Settlement Offer \$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

Statutory Limit Test

Estimated EB Amount \$376

Violation Final Penalty Total \$1,920

This violation Final Assessed Penalty (adjusted for limits) \$1,920

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 1
Case ID No. 38642
Reg. Ent. Reference No. RN102183035
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
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	\$5,000	28-Feb-2009	31-Aug-2010	1.50	\$376	n/a	\$376
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. 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

\$5,000

TOTAL

\$376

Effluent Limit Violation Table

Respondent	Orange County Water Control and Improvement District No. 1
ID Number(s)	TPDES Permit No. WQ0010875003; Case No. 38642
Docket Number	2009-1793-MWD-E
Enf. Coordinator	Jordan Jones

Corresponds to Violation Number:

1

**EFFLUENT PARAMETER
Permit Limit**

	CBOD5 Daily Avg. Loading	Daily Avg. Flow	Total Ammonia-Nitrogen Daily Avg. Loading	Total Suspended Solids Daily Avg. Conc.	Total Suspended Solids Daily Avg. Loading
Month/Year	Limit = 21 lbs/day	Limit = 0.255 MGD	Limit = 6 lbs/day	Limit = 15 mg/L	Limit = 32 lbs/day
2/28/2009	c	c	c	23	43.1
4/30/2009	42.1	0.27	11.9	15.8	109.8
	CBOD5 = carbonaceous biochemical oxygen demand 5-Day			avg. = average	
	conc. = concentration			mg/L = milligrams per liter	
	lbs/day = pounds per day			MGD = million gallons per day	
	c = compliant				

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601441850	Orange County Water Control and Improvement District No. 1	Classification: AVERAGE	Rating: 2.48
Regulated Entity:	RN102183035	TIGER LAKE PLANT	Classification: AVERAGE	Site Rating: 1.42
ID Number(s):	WASTEWATER	PERMIT	WQ0010875003	
	WASTEWATER	PERMIT	TPDES0108073	
	WASTEWATER	PERMIT	TX0108073	
	WASTEWATER LICENSING	LICENSE	WQ0010875003	
Location:	Located 3,500 feet southwest of the intersection of Farm-to-Market Road 1132 and State Highway 105 in Orange County, Texas.			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	November 03, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 03, 2004 to November 03, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jordan Jones	Phone:	512-239-2569	

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: 9/1/2009 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.
- | | |
|---|----------------------------|
| Effective Date: 02/08/2008 | ADMINORDER 2007-1101-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 | |
- 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 | 11/23/2004 | (388944) |
| 2 | 12/15/2004 | (388945) |
| 3 | 01/14/2005 | (388946) |
| 4 | 02/10/2005 | (426543) |
| 5 | 03/21/2005 | (388943) |
| 6 | 04/26/2005 | (426544) |
| 7 | 05/23/2005 | (426545) |
| 8 | 06/20/2005 | (426546) |
| 9 | 07/18/2005 | (446802) |
| 10 | 08/19/2005 | (446803) |
| 11 | 09/14/2005 | (446804) |
| 12 | 10/09/2005 | (490574) |
| 13 | 11/18/2005 | (490575) |
| 14 | 12/19/2005 | (490576) |
| 15 | 01/23/2006 | (490577) |

16	02/07/2008	(440201)
17	02/27/2008	(490572)
18	03/21/2006	(490573)
19	04/19/2006	(505388)
20	05/22/2006	(505389)
21	05/30/2006	(479801)
22	06/21/2006	(505390)
23	07/24/2006	(527675)
24	08/22/2006	(527676)
25	09/22/2006	(527674)
26	11/10/2006	(551333)
27	11/27/2006	(551334)
28	12/11/2006	(588082)
29	12/22/2006	(551335)
30	01/22/2007	(588083)
31	02/20/2007	(588078)
32	03/15/2007	(543431)
33	03/20/2007	(588079)
34	04/23/2007	(588080)
35	06/21/2007	(588081)
36	07/06/2007	(565464)
37	07/20/2007	(605323)
38	08/29/2007	(605324)
39	09/11/2007	(605325)
40	10/19/2007	(629215)
41	12/10/2007	(629216)
42	12/20/2007	(629217)
43	01/16/2008	(676643)
44	02/21/2008	(676641)
45	02/25/2008	(636520)
46	03/18/2008	(676642)
47	03/31/2008	(640501)
48	04/08/2008	(640656)
49	04/21/2008	(695187)
50	05/21/2008	(695188)
51	06/20/2008	(716693)
52	07/22/2008	(716694)
53	09/18/2008	(716696)
54	09/25/2008	(716695)
55	09/30/2008	(732135)
56	10/17/2008	(732136)
57	11/10/2008	(732137)
58	12/29/2008	(755477)
59	01/13/2009	(755478)
60	02/18/2009	(755474)
61	03/13/2009	(755475)
62	04/20/2009	(755476)
63	05/26/2009	(772542)
64	06/10/2009	(744245)
65	06/11/2009	(772543)
66	09/25/2009	(776376)
67	10/29/2009	(776825)

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

Date: 02/28/2005 (388943)

CN601441850

Self Report? YES

Classification: Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description:

Failure to meet the limit for one or more permit parameter

Date:	04/30/2007	(527674)	CN601441850	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:	07/31/2007	(605324)	CN601441850	Classification:	Moderate
Self Report?	YES				
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:	09/30/2007	(629215)	CN601441850	Classification:	Moderate
Self Report?	YES				
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	(695188)	CN601441850	Classification:	Moderate
Self Report?	YES				
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:	02/28/2009	(755475)	CN601441850	Classification:	Moderate
Self Report?	YES				
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:	04/30/2009	(772542)	CN601441850	Classification:	Moderate
Self Report?	YES				
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:	06/10/2009	(744245)	CN601441850	Classification:	Minor
Self Report?	NO				
Citation:	OT 7, Pg. 23 PERMIT				
Description:	Failure by Orange County WCID #1 to submit complete annual sludge reports by September 1, of each year.				
Self Report?	NO			Classification:	Moderate
Citation:	EL&MR 1, Pg. 2 PERMIT				
Description:	Failure by Orange County WCID 1 to comply with total suspended solids daily average effluent limitation of 15 mg/l.				

- 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
- K. Sites Outside of Texas
N/A

Date:	03/31/2005	(426544)	CN601441850	
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	(490577)	CN601441850	
Self Report?	YES			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/07/2006	(440201)	CN601441850	
Self Report?	NO			Classification: Minor
Citation:	IEL&MR 2 PERMIT			
Description:	The effluent total chlorine residual was 0.83 mg/l.			
Self Report?	NO			Classification: Minor
Citation:	M&RR 5 PERMIT			
Description:	Flow accuracy check revealed a flow error of 13.8%.			
Self Report?	NO			Classification: Minor
Citation:	OpR 1 PERMIT			
Description:	Heavy algae growth on clarifier weirs.			
Self Report?	NO			Classification: Moderate
Citation:	IEL&MR 1 PERMIT			
Description:	Daily average flow limits were exceeded during the months of 12/2002, 11/2003, and 02/2005.			
Self Report?	NO			Classification: Minor
Citation:	OpR 1 PERMIT			
Description:	Solids levels within the system were higher than generally accepted industry standards for a complete mix system.			
Self Report?	NO			Classification: Moderate
Citation:	OpR 1 PERMIT PC 2g PERMIT			
Description:	On 01/31/2005, the lift station serving Dundee street failed, causing an unauthorized discharge of an estimated 9,000 gallons. On 12/25/2005 through 12/26/2005, the District reported that a switch failure on the automatic bar screen caused a discharge of an estimated 60,000 gallons of raw sewage.			
Date:	07/31/2006	(527676)	CN601441850	
Self Report?	YES			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2006	(551334)	CN601441850	
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:	01/31/2007	(588078)	CN601441850	
Self Report?	YES			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/28/2007	(588079)	CN601441850	
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			

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ORANGE COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 1
RN102183035

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-1793-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 Orange County Water Control and Improvement District No. 1 ("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 3,500 feet southwest of the intersection of Farm-to-Market Road 1132 and State Highway 105 in Orange County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 3, 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 One Thousand Nine Hundred Twenty Dollars (\$1,920) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Thirty-Six Dollars (\$1,536) of the administrative penalty and Three Hundred Eighty-Four Dollars (\$384) 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 of the Facility, the Respondent is alleged to have failed to comply with permit effluent limits, 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. WQ0010875003, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 21, 2009 as shown in the table below:

	CBOD5 Daily Avg. Loading	Daily Avg. Flow	Total Ammonia- Nitrogen Daily Avg. Loading	Total Suspended Solids Daily Avg. Conc.	Total Suspended Solids Daily Avg. Loading
Month/Year	Limit = 21 lbs/day	Limit = 0.255 MGD	Limit = 6 lbs/day	Limit = 15 mg/L	Limit = 32 lbs/day
2/28/2009	C	c	c	23	43.1
4/30/2009	42.1	0.27	11.9	15.8	109.8
	CBOD5 = carbonaceous biochemical oxygen demand 5-day			avg. = average	
	conc. = concentration			mg/L = milligrams per liter	
	lbs/day = pounds per day			MGD = million gallons per day	
	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: Orange County Water Control and Improvement District No. 1, Docket No. 2009-1793-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. WQ0010875003, 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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

2/25/2010

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.



Signature

1/19/2010

Date

Darlene Jackson

Name (Printed or typed)
Authorized Representative of
Orange County Water Control and Improvement District No. 1

District 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.