

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1831-MWD-E **TCEQ ID:** RN102359981 **CASE NO.:** 38562

**RESPONDENT NAME:** Harris County Municipal Utility District No. 238

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <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                    |  |
| <b>CASE TYPE:</b>  |   |  |
| <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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Harris County Municipal Utility District No. 238, approximately 1 mile north of the intersection of Saums Road and Barker-Cypress Road, approximately 2.1 miles north-northwest of the intersection of Interstate Highway 10 and Barker-Cypress Road, Harris County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There were two complaints on April 13 and 15, 2009, alleging the Facility was intermittently noisy and malodorous. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 26, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, R-14, (512) 239-1460; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Lawrence Biediger, President, Harris County Municipal Utility District No. 238, 1300 Post Oak Boulevard, Suite 1400, Houston, Texas 77056<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|---|---|--|
| <p><b>Type of Investigation:</b><br/> <input checked="" type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> April 13, 2009 and April 15, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> April 20 through July 14, 2009</p> <p><b>Date of NOE Relating to this Case:</b> October 1, 2009</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>1) Failure to prevent the unauthorized discharge of wastewater sludge into or adjacent to water in the state. Specifically, the Respondent discharged an unknown amount of sludge, wastewater and other debris into the receiving stream and adjoining storm water pond [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012802001 Permit Conditions 2.d., and Interim Effluent Limitations and Monitoring Requirements No. 4].</p> <p>2) Failure to comply with permit effluent limits. Specifically, a grab sample collected on May 5, 2009 measured a chlorine residual of 0.18 milligrams per liter ("mg/L") and TPDES Permit No. WQ0012802001 requires a chlorine residual minimum of 1.0 mg/L [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0012802001, Interim Effluent Limitations and Monitoring Requirements No. 2].</p> | <p><b>Total Assessed:</b> \$3,900</p> <p><b>Total Deferred:</b> \$780<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,120</p> <p><b>Site Compliance History Classification</b><br/> <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By August 7, 2009, the Respondent completed the clean up of the wastewater discharge by hiring a third party contractor to remove 851,400 gallons of sludge from the storm water pond and receiving stream; and</p> <p>b. By June 30, 2009, the Respondent came into compliance with the permitted effluent limits by removing trees, logs, debris and other blockages and by repairing the damage to the receiving stream and detention pond to allow for unobstructed effluent flow.</p> |

Additional ID No(s): WQ0012802001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

|              |          |             |           |             |         |  |
|--------------|----------|-------------|-----------|-------------|---------|--|
| <b>DATES</b> | Assigned | 5-Oct-2009  | Screening | 12-Oct-2009 | EPA Due |  |
|              | PCW      | 26-Oct-2009 |           |             |         |  |

|  |  |                    |       |
|--|--|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |                    |       |
| Respondent                             | Harris County Municipal Utility District No. 238 |                    |       |
| Reg. Ent. Ref. No.                     | RN102359981                                      |                    |       |
| Facility/Site Region                   | 12-Houston                                       | Major/Minor Source | Minor |

|                                 |                 |                       |                    |
|---------------------------------|-----------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b>         |                 |                       |                    |
| Enf./Case ID No.                | 38562           | No. of Violations     | 2                  |
| Docket No.                      | 2009-1831-MWD-E | Order Type            | 1660               |
| Media Program(s)                | Water Quality   | Government/Non-Profit | Yes                |
| Multi-Media                     |                 | Enf. Coordinator      | Jeremy Escobar     |
|                                 |                 | EC's Team             | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0             | Maximum               | \$10,000           |

## Penalty Calculation Section

|   |                   |         |
|---|-------------------|---------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$6,000 |
|---|-------------------|---------|

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

|                           |                    |                                |        |
|---------------------------|--------------------|--------------------------------|--------|
| <b>Compliance History</b> | -10.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | -\$600 |
|---------------------------|--------------------|--------------------------------|--------|

Notes: A reduction is recommended due to high performer classification.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |         |
|--|-------------------|---------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$1,500 |
|--|-------------------|---------|

|                         |                   |                   |     |
|-------------------------|-------------------|-------------------|-----|
| <b>Economic Benefit</b> | 0.0% Enhancement* | <b>Subtotal 6</b> | \$0 |
|-------------------------|-------------------|-------------------|-----|

|                            |           |
|----------------------------|-----------|
| Total EB Amounts           | \$2,205   |
| Approx. Cost of Compliance | \$210,000 |

\*Capped at the Total EB \$ Amount

|                             |                       |         |
|-----------------------------|-----------------------|---------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$3,900 |
|-----------------------------|-----------------------|---------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

|                             |         |
|-----------------------------|---------|
| <b>Final Penalty Amount</b> | \$3,900 |
|-----------------------------|---------|

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$3,900 |
|-----------------------------------|-------------------------------|---------|

|                 |                 |                   |        |
|-----------------|-----------------|-------------------|--------|
| <b>DEFERRAL</b> | 20.0% Reduction | <b>Adjustment</b> | -\$780 |
|-----------------|-----------------|-------------------|--------|

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

Notes:

Deferral offered for expedited settlement.

|                        |         |
|------------------------|---------|
| <b>PAYABLE PENALTY</b> | \$3,120 |
|------------------------|---------|

Screening Date 12-Oct-2009

Docket No. 2009-1831-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 238

Policy Revision 2 (September 2002)

Case ID No. 38562

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102359981

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOV meeting criteria)   | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)                                       | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

A reduction is recommended due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 12-Oct-2009

Docket No. 2009-1831-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 238

Policy Revision 2 (September 2002)

Case ID No. 38562

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102359981

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

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. WQ0012802001 Permit Conditions 2.d., and Interim Effluent Limitations and Monitoring Requirements No. 4

Violation Description

Failed to prevent the unauthorized discharge of wastewater sludge into or adjacent to water in the state. Specifically, the Respondent discharged an unknown amount of sludge, wastewater and other debris into the receiving stream and adjoining storm water pond, as documented in an investigation conducted from June 8, 2009 through July 14, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       | X        |       |
| Potential |       |          |       |

Percent 25%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

60 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | X |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$5,000

Two monthly events are recommended from the date the violation was documented (June 8, 2009) to the compliance date (August 7, 2009).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

|               | Before NOV | NOV to EDRP/Settlement Offer |
|---------------|------------|------------------------------|
| Extraordinary |            |                              |
| Ordinary      | X          |                              |
| N/A           |            | (mark with x)                |

Notes The Respondent achieved compliance August 7, 2009.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$184

Violation Final Penalty Total \$3,250

This violation Final Assessed Penalty (adjusted for limits) \$3,250

# Economic Benefit Worksheet

**Respondent** Harris County Municipal Utility District No. 238  
**Case ID No.** 38562  
**Reg. Ent. Reference No.** RN102359981  
**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     | \$20,000 | 8-Jun-2009 | 7-Aug-2009 | 0.16 | \$164 | n/a | \$164 |
| Permit Costs             |          |            |            | 0.00 | \$0   | n/a | \$0   |
| Other (as needed)        |          |            |            | 0.00 | \$0   | n/a | \$0   |

Notes for DELAYED costs

Estimated cost of the clean up and removal of 851,400 gallons of sludge, wastewater and other debris from the affected discharge area. The cost to prevent future occurrences is included in the economic benefit for violation 2. Date required is the date the violation was documented. The final date is the 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

\$20,000

TOTAL

\$164

Screening Date 12-Oct-2009

Docket No. 2009-1831-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 238

Policy Revision 2 (September 2002)

Case ID No. 88562

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102359981

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0012802001, Interim Effluent Limitations and Monitoring Requirements No. 2

Violation Description

Failed to comply with permit effluent limits. Specifically, a grab sample collected on May 5, 2009, measured a chlorine residual of 0.18 milligrams per liter ("mg/L") and TPDES Permit No. WQ0012802001 requires a chlorine residual minimum of 1.0 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          | X     |
| Potential |       |          |       |

Percent 10%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | Major | Moderate | Minor |
|               |       |          |       |

Percent 0%

Matrix Notes

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 as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

30 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | X |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

|               | 25.0% Reduction |                              |
|---------------|-----------------|------------------------------|
|               | Before NOV      | NOV to EDRP/Settlement Offer |
| Extraordinary |                 |                              |
| Ordinary      | X               |                              |
| N/A           |                 | (mark with x)                |

\$250

Notes The Respondent came into compliance by June 30, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$2,041

Statutory Limit Test

Violation Final Penalty Total \$650

This violation Final Assessed Penalty (adjusted for limits) \$650

# Economic Benefit Worksheet

**Respondent** Harris County Municipal Utility District No. 238  
**Case ID No.** 38662  
**Reg. Ent. Reference No.** RN102359981  
**Media** Water Quality  
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

Item Description No commas or \$

**Delayed Costs**

|                          |           |            |             |      |      |         |         |
|--------------------------|-----------|------------|-------------|------|------|---------|---------|
| Equipment                |           |            |             | 0.00 | \$0  | \$0     | \$0     |
| Buildings                |           |            |             | 0.00 | \$0  | \$0     | \$0     |
| Other (as needed)        |           |            |             | 0.00 | \$0  | \$0     | \$0     |
| Engineering/construction | \$190,000 | 5-May-2009 | 30-Jun-2009 | 0.15 | \$97 | \$1,943 | \$2,041 |
| Land                     |           |            |             | 0.00 | \$0  | n/a     | \$0     |
| Record Keeping System    |           |            |             | 0.00 | \$0  | n/a     | \$0     |
| Training/Sampling        |           |            |             | 0.00 | \$0  | n/a     | \$0     |
| Remediation/Disposal     |           |            |             | 0.00 | \$0  | n/a     | \$0     |
| Permit Costs             |           |            |             | 0.00 | \$0  | n/a     | \$0     |
| Other (as needed)        |           |            |             | 0.00 | \$0  | n/a     | \$0     |

Notes for DELAYED costs

Cost given by the Respondent for the removal of trees, logs, debris and other blockages and the repair of the damage to the receiving stream and detention pond that allows for unobstructed effluent flow. Date required is the date of non-compliance. The final date is the 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

\$190,000

TOTAL

\$2,041

# Compliance History Report

|   |  |   |                      |                   |
|---|--|---|----------------------|-------------------|
| Customer/Respondent/Owner-Operator:   | CN600737969  | Harris County Municipal Utility District<br>238 | Classification: HIGH | Rating: 0.00      |
| Regulated Entity:   | RN102359981  | HARRIS COUNTY MUD 238                           | Classification: HIGH | Site Rating: 0.00 |
| ID Number(s):   | WASTEWATER   | PERMIT  |                      | WQ0012802001      |
|   | WASTEWATER   | PERMIT  |                      | TPDES0093891      |
|   | WASTEWATER   | PERMIT  |                      | TX0093891         |
|   | WASTEWATER LICENSING   | LICENSE   |                      | WQ0012802001      |
| Location:   | APPROX 1 MI N OF INTX OF SAUMS RD & BARKER-<br>CYPRESS RD APPROX 2.1 MI N-NW OF INTX OF I-10 &<br>BARKER-CYPRESS RD IN HARRIS COUNTY |   |                      |                   |
| TCEQ Region:  | REGION 12 - HOUSTON  |   |                      |                   |
| Date Compliance History Prepared:   | November 17, 2009  |   |                      |                   |
| Agency Decision Requiring Compliance History:   | Enforcement  |   |                      |                   |
| Compliance Period:  | October 12, 2004 to October 12, 2009   |   |                      |                   |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History |  |   |                      |                   |
| Name:   | Jeremy Escobar   | Phone:  | 239 - 1460           |                   |

## 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.
 

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  | 10/22/2004 | (362417) |
| 2  | 11/22/2004 | (387708) |
| 3  | 12/20/2004 | (387709) |
| 4  | 01/20/2005 | (387710) |
| 5  | 02/09/2005 | (387706) |
| 6  | 03/21/2005 | (387707) |
| 7  | 04/20/2005 | (425398) |
| 8  | 05/19/2005 | (425399) |
| 9  | 06/23/2005 | (425400) |
| 10 | 07/20/2005 | (445972) |
| 11 | 08/23/2005 | (445973) |
| 12 | 09/20/2005 | (445974) |
| 13 | 10/19/2005 | (478029) |
| 14 | 11/17/2005 | (478030) |
| 15 | 12/20/2005 | (478031) |
| 16 | 01/20/2006 | (478032) |
| 17 | 02/21/2006 | (478027) |
| 18 | 03/20/2006 | (478028) |
| 19 | 04/20/2006 | (504408) |
| 20 | 05/24/2006 | (504409) |

|    |            |          |
|----|------------|----------|
| 21 | 06/20/2006 | (504410) |
| 22 | 07/10/2006 | (481185) |
| 23 | 07/28/2006 | (526730) |
| 24 | 08/21/2006 | (270765) |
| 25 | 08/21/2006 | (526731) |
| 26 | 09/29/2006 | (526732) |
| 27 | 10/23/2006 | (626440) |
| 28 | 11/27/2006 | (626442) |
| 29 | 12/22/2006 | (626444) |
| 30 | 01/03/2007 | (532431) |
| 31 | 01/22/2007 | (626446) |
| 32 | 02/27/2007 | (626432) |
| 33 | 03/26/2007 | (626433) |
| 34 | 04/20/2007 | (626434) |
| 35 | 06/18/2007 | (626436) |
| 36 | 07/13/2007 | (626435) |
| 37 | 07/13/2007 | (626437) |
| 38 | 08/21/2007 | (626438) |
| 39 | 09/19/2007 | (626439) |
| 40 | 10/19/2007 | (626441) |
| 41 | 11/13/2007 | (626443) |
| 42 | 12/19/2007 | (626445) |
| 43 | 01/18/2008 | (626447) |
| 44 | 02/19/2008 | (675913) |
| 45 | 03/19/2008 | (675914) |
| 46 | 04/21/2008 | (675915) |
| 47 | 05/16/2008 | (694292) |
| 48 | 06/16/2008 | (694293) |
| 49 | 07/15/2008 | (694294) |
| 50 | 08/25/2008 | (715867) |
| 51 | 09/23/2008 | (715868) |
| 52 | 10/17/2008 | (715869) |
| 53 | 11/20/2008 | (731370) |
| 54 | 12/15/2008 | (731371) |
| 55 | 01/15/2009 | (731372) |
| 56 | 02/18/2009 | (754701) |
| 57 | 03/12/2009 | (754702) |
| 58 | 04/20/2009 | (754703) |
| 59 | 05/14/2009 | (771917) |
| 60 | 06/10/2009 | (771918) |

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HARRIS COUNTY MUNICIPAL  
UTILITY DISTRICT NO. 238  
RN102359981**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-1831-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Harris County Municipal Utility District No. 238 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment plant approximately one mile north of the intersection of Saums Road and Barker-Cypress Road, approximately 2.1 miles north-northwest of the intersection of Interstate Highway 10 and Barker-Cypress Road, Harris County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 6, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Nine Hundred Dollars (\$3,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand One Hundred Twenty Dollars (\$3,120) of the administrative penalty and Seven Hundred Eighty Dollars (\$780) 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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By August 7, 2009, the Respondent completed the clean up of the wastewater discharge by hiring a third party contractor to remove 851,400 gallons of sludge from the storm water pond and receiving stream; and
  - b. By June 30, 2009, the Respondent came into compliance with the permitted effluent limits by removing trees, logs, debris and other blockages and by repairing the damage to the receiving stream and detention pond to allow for unobstructed effluent flow.
10. 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.
11. 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.
12. 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:

1. Failed to prevent the unauthorized discharge of wastewater sludge into or adjacent to water in the state, 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. WQ0012802001 Permit Conditions 2.d., and Interim Effluent Limitations and Monitoring Requirements No. 4, as documented during an investigation conducted from April 20, 2009 through July 14, 2009. Specifically, on June 8, 2009, the Respondent discharged an unknown amount of sludge, wastewater and other debris into the receiving stream and adjoining storm water pond.

2. Failed to comply with permit effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0012802001, Interim Effluent Limitations and Monitoring Requirements No. 2, as documented during an investigation conducted from April 20, 2009 through July 14, 2009. Specifically, a grab sample collected on May 5, 2009 measured a chlorine residual of 0.18 milligrams per liter ("mg/L") and TPDES Permit No. WQ0012802001 requires a chlorine residual minimum of 1.0 mg/L.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Harris County Municipal Utility District No. 238, Docket No. 2009-1831-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. 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.
3. 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.
4. 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.
5. 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 Srdin*  
For the Executive Director

4/22/2010  
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.

*Lawrence Biediger*  
Signature

02/19/2010  
Date

Lawrence Biediger  
Name (Printed or typed)  
Authorized Representative of  
Harris County Municipal Utility District No. 238

President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.