

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0165-MWD-E **TCEQ ID:** RN101523512 **CASE NO.:** 39129

RESPONDENT NAME: Jim Hogg County Water Control & Improvement District No. 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Hebronville Plant, located approximately 3,700 feet east of the intersection of State Highway ("S.H.") 285 and Farm-to-Market Road 1017, on the north side of S.H. 285, Jim Hogg 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 June 21, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Santos E. Cantu, President, Jim Hogg County Water Control & Improvement District No. 2, P.O. Box 148, Hebronville, Texas 78361 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2010-0165-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: November 12, 2009</p> <p>Date of NOV/NOE Relating to this Case: January 27, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to meet permitted effluent limitations for ammonia nitrogen and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010799001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$7,140</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$7,140</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>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</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 permitted effluent limitations of TPDES Permit No. WQ0010799001, 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 include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0010799001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Feb-2010	Screening	2-Feb-2010	EPA Due	
	PCW	2-Feb-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Jim Hogg County Water Control & Improvement District No. 2		
Reg. Ent. Ref. No.	RN101523512		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39129	No. of Violations	2
Docket No.	2010-0165-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Evette Alvarado
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$6,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	19.0% Enhancement	Subtotals 2, 3, & 7	\$1,140
Notes	Enhancement recommended for three self-reported monthly effluent violations and two NOVs with unrelated violations.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$668	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$10,000		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$7,140
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$7,140
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$7,140
DEFERRAL	0.0% Reduction	Adjustment	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	No deferral is recommended for Findings Orders.		
PAYABLE PENALTY			\$7,140

Screening Date 2-Feb-2010

Docket No. 2010-0165-MWD-E

PCW

Respondent Jim Hogg County Water Control & Improvement District I

Policy Revision 2 (September 2002)

Case ID No. 39129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101523512

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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)	3	15%
	Other written NOVs	2	4%
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%

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) 19%

>> 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

Enhancement recommended for three self-reported monthly effluent violations and two NOVs with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 19%

Screening Date 2-Feb-2010

Docket No. 2010-0165-MWD-E

PCW

Respondent Jim Hogg County Water Control & Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 39129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101523512

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010799001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to meet permitted effluent limitations, as documented during a record review conducted on November 12, 2009, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH₃-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels 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 for March and April 2009.

Good Faith Efforts to Comply

0.0% Reduction \$0

Before NOV NOV to EDP/PP/Settlement Offer

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 \$668

Violation Final Penalty Total \$1,190

This violation Final Assessed Penalty (adjusted for limits) \$1,190

Economic Benefit Worksheet

Respondent Jim Hogg County Water Control & Improvement District No. 2
Case ID No. 39129
Reg. Ent. Reference No. RN101523512
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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Mar-2009	1-Aug-2010	1.34	\$668	n/a	\$668

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and take appropriate corrective action. Date required is the first month 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

\$10,000

TOTAL

\$668

Screening Date 2-Feb-2010

Docket No. 2010-0165-MWD-E

PCW

Respondent Jim Hogg County Water Control & Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 39129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101523512

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010799001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to meet permitted effluent limitations, as documented during a record review conducted on November 12, 2009, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate NH₃-N 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 significant amounts of pollutants which exceed levels protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

One monthly event is recommended for the month of May 2009.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/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 \$5,950

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,950

This violation Final Assessed Penalty (adjusted for limits) \$5,950

Economic Benefit Worksheet

Respondent Jim Hogg County Water Control & Improvement District No. 2
Case ID No. 39129
Reg. Ent. Reference No. RN101523512
Media Water Quality
Violation No. 2

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				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

Economic benefit included in violation No. 1.

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

\$0

TOTAL

\$0

Jim Hogg County Water Control & Improvement District No. 2
 TPDES Permit No. WQ0010799001
 Docket No. 2010-0165-MWD-E

Effluent Violation Table				
Months	NH₃-N daily avg. conc. (limit 3 mg/L)	NH₃-N daily avg. loading (limit 20 lbs/day)	NH₃-N daily max. conc. (limit 10 mg/L)	TSS daily avg. conc. (limit 20 mg/L)
03/31/2009	3.48	c	10.4	c
04/30/2009	5.85	24.56	11.8	c
05/31/2009	16.4	70.68	23.1	17

mg/L = milligrams per liter

NH₃-N = ammonia nitrogen

avg. = average

c = compliant

conc. = concentration

TSS = total suspended solids

lbs/day = pounds per day

max. = maximum

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600682348 Jim Hogg County Water Control & Improvement District No. 2	Classification: AVERAGE	Rating: 1.56
Regulated Entity:	RN101523512 HEBBRONVILLE PLANT	Classification: AVERAGE	Site Rating: 0.12

ID Number(s):	WASTEWATER	PERMIT	WQ0010799001
	WASTEWATER	PERMIT	TPDES0101826
	WASTEWATER	PERMIT	TX0101826
	SLUDGE	REGISTRATION	22199
	WASTEWATER LICENSING	LICENSE	WQ0010799001

Location: Approx. 3,700 ft east of the Intx of SH 285 and FM 1017, on north side of SH 285, Jim Hogg Co., Tx

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: February 01, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 01, 2005 to February 01, 2010

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

Name: Evette Alvarado Phone: 512 - 239 - 2573

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 | 02/04/2005 | (345938) |
| 2 | 04/07/2005 | (425921) |
| 3 | 04/15/2005 | (377618) |
| 4 | 05/11/2005 | (425922) |
| 5 | 07/11/2005 | (446395) |
| 6 | 08/19/2005 | (446396) |
| 7 | 09/16/2005 | (446397) |
| 8 | 10/10/2005 | (478937) |
| 9 | 11/21/2005 | (478938) |
| 10 | 12/08/2005 | (478939) |
| 11 | 01/09/2006 | (478940) |

12 02/09/2006 (478935)
 13 03/13/2006 (478936)
 14 04/24/2006 (504900)
 15 05/12/2006 (504901)
 16 06/12/2006 (504902)
 17 07/24/2006 (527201)
 18 08/21/2006 (527202)
 19 09/14/2006 (527203)
 20 10/19/2006 (551027)
 21 11/10/2006 (551028)
 22 11/22/2006 (511902)
 23 01/10/2007 (587564)
 24 01/10/2007 (587565)
 25 02/02/2007 (536668)
 26 02/09/2007 (587559)
 27 03/09/2007 (587560)
 28 04/16/2007 (587561)
 29 05/15/2007 (587562)
 30 06/13/2007 (587563)
 31 07/16/2007 (605080)
 32 08/20/2007 (605081)
 33 09/13/2007 (605082)
 34 10/18/2007 (628031)
 35 11/26/2007 (628032)
 36 11/30/2007 (609406)
 37 12/20/2007 (628033)
 38 01/14/2008 (676311)
 39 02/19/2008 (676310)
 40 03/17/2008 (694702)
 41 04/18/2008 (694703)
 42 05/16/2008 (694704)
 43 06/23/2008 (716179)
 44 07/11/2008 (716180)
 45 08/07/2008 (682870)
 46 08/13/2008 (716181)
 47 09/17/2008 (716182)
 48 10/20/2008 (716183)
 49 11/10/2008 (731705)
 50 12/12/2008 (731706)
 51 01/12/2009 (755103)
 52 02/20/2009 (755102)
 53 03/23/2009 (772235)
 54 04/22/2009 (772236)
 55 05/18/2009 (772237)
 56 01/28/2010 (782224)

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

Date: 02/02/2005 (345938) CN600682348
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 210, SubChapter B 210.25(g)
 Description: Failure to insure that all exposed piping for non-potable water is either purple pipe, painted purple, or stenciled Non-Potable Water.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.2(d)(5)(E)
 Operational Requirements 1 (page 9) PERMIT
 Description: Failure to maintain two working motor pumps at the Old Cemetery Road Lift Station.

Date: 08/08/2008 (682870) CN600682348
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.3
 Description: Failure to properly operate and maintain the on-site lift station.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(b)(1)
 Description: Failure to properly operate and maintain the bar screen.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to maintain calibration and maintenance records for the pH meter and the dissolved oxygen meter.

Date: 03/31/2009 (772236) CN600682348
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2009 (772237) CN600682348
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2009 CN600682348
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
JIM HOGG COUNTY WATER CONTROL	§	
& IMPROVEMENT DISTRICT NO. 2	§	ENVIRONMENTAL QUALITY
RN101523512	§	

AGREED ORDER
DOCKET NO. 2010-0165-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jim Hogg County Water Control & Improvement District No. 2 ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 3,700 feet east of the intersection of State Highway ("S.H.") 285 and Farm-to-Market Road 1017, on the north side of S.H. 285 in Jim Hogg 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. During a record review conducted on November 12, 2009, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports.

Effluent Violation Table				
Months	NH ₃ -N daily avg. conc. (limit 3 mg/L)	NH ₃ -N daily avg. loading (limit 20 lbs/day)	NH ₃ -N daily max. conc. (limit 10 mg/L)	TSS daily avg. conc. (limit 20 mg/L)
03/31/2009	3.48	c	10.4	c
04/30/2009	5.85	24.56	11.8	c
05/31/2009	16.4	70.68	23.1	17

mg/L = milligrams per liter

NH₃-N = ammonia nitrogen

avg. = average

c = compliant

conc. = concentration

TSS = total suspended solids

lbs/day = pounds per day

max. = maximum

4. The Respondent received notice of the violations on February 2, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to meet permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010799001, Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Seven Thousand One Hundred Forty Dollars (\$7,140) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Seven Thousand One Hundred Forty Dollar (\$7,140) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Seven Thousand One Hundred Forty Dollars (\$7,140) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Jim Hogg County Water Control & Improvement District No. 2, Docket No. 2010-0165-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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010799001, 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 include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the 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 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
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

Jim Hogg County Water Control & Improvement District No. 2
DOCKET NO. 2010-0165-MWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Bradley
For the Executive Director

6/7/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Jim Hogg County Water Control & Improvement District No. 2. I am authorized to agree to the attached Agreed Order on behalf of Jim Hogg County Water Control & Improvement District No. 2, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Jim Hogg County Water Control & Improvement District No. 2 waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

SALES E. CARTER
Signature

5/24/10
Date

Sales E. Carter
Name (Printed or typed)

President
Title

Authorized Representative of
Jim Hogg County Water Control & Improvement District No. 2

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.