

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0226-MLM-E **TCEQ ID:** RN101609543 **CASE NO.:** 39190

RESPONDENT NAME: Nueces County Water Control and Improvement District No. 5

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"/> IMMEDIATE 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 checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Banquete Plant, located at the crossing of Banquete Creek and County Road 40, approximately 1.25 miles east of Farm-to-Market Road 666 and 0.5 mile south of State Highway 44, near Banquete, Nueces 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: State Representative Abel Herrero, P.O. Box 2910, Room EXT B1.212, Austin, Texas 78768 State Representative Juan Hinojosa, P.O. Box 12068, Capitol Station, Austin, Texas 78711</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 12, 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. Miguel Pena, Board President, Nueces County Water Control and Improvement District No. 5, P.O. Box 157, Banquete, Texas 78339-0157 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 14, 2010</p> <p>Date of NOV/NOE Relating to this Case: February 4, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER/WASTE</p> <p>1) Failure to ensure that the Facility and all its systems of collection, treatment, and disposal are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011583001, Operational Requirements No. 1].</p> <p>2) Failure to prevent a discharge of solids into the receiving stream [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011583001, Effluent Limitations and Monitoring Requirements No. 4 and Permit Conditions No. 2.d].</p> <p>3) Failure to maintain compliance with permitted effluent limits for chlorine residual [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011583001, Effluent Limitations and Monitoring Requirements No. 2].</p> <p>4) Failure to submit the Annual Sludge Report ("ASR") for the annual monitoring period ending July 31, 2009, by September 1, 2009 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0011583001, Sludge Provisions].</p> <p>5) Failure to retain records of monitoring and reporting, including calibration</p>	<p>Total Assessed: \$15,700</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 (Due) to General Revenue: \$475 (remaining \$15,225 due in 35 monthly payments of \$435 each)</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: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By January 14, 2010, updated operational guidance and purchased necessary supplies to begin conducting the manganese correction on chlorine analyses of treated effluent;</p> <p>b. By January 28, 2010, removed and properly disposed of the sludge accumulated in and outside the sludge drying bed;</p> <p>c. By January 29, 2010, submitted the ASR, began maintaining calibration records for the dissolved oxygen meter, and submitted revised discharge monitoring reports for the months of July 2008 through February 2009; and</p> <p>d. By February 26, 2010, repaired the chlorinator.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Make repairs to the clarifier to prevent unauthorized discharges of sludge; and</p> <p>ii. Update operational guidance and conduct employee training to ensure that all MSW and MSW sludge is transported and disposed of in an authorized manner.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i and a.ii.</p>

<p>records, at the Facility [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(c), and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 3.b].</p> <p>6) Failure to report all effluent limitation violations on the approved self-report form [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 7.d].</p> <p>7) Failure to analyze effluent according to the test methods specified in 40 CODE OF FEDERAL REGULATIONS Part 136 or more recent editions of Standard Methods for the Examination of Water and Wastewater [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c), and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 2.a].</p> <p>8) Failure to prevent the unauthorized transportation and disposal of municipal solid waste ("MSW") [30 TEX. ADMIN. CODE § 330.15(a)].</p>		
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Additional ID No(s): WQ0011583001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Feb-2010	Screening	12-Feb-2010	EPA Due	
	PCW	18-Feb-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Nueces County Water Control and Improvement District No. 5
Reg. Ent. Ref. No.	RN101609543
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39190	No. of Violations	8
Docket No.	2010-0226-MLM-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media	Municipal Solid Waste	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	\$8,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	90.0% Enhancement	Subtotals 2, 3, & 7	\$7,650
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Notes: Enhancement recommended due to 15 self-reported monthly effluent violations and three NOV's similar to those cited in this case.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$450
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$535
 Approx. Cost of Compliance \$4,497
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,700
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$15,700
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,700
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$15,700
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Screening Date 12-Feb-2010

Docket No. 2010-0226-MLM-E

PCW

Respondent Nueces County Water Control and Improvement District

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609543

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)	18	90%
	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement recommended due to 15 self-reported monthly effluent violations and three NOVs similar to those cited in this case.

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

Screening Date 12-Feb-2010

Docket No. 2010-0226-MLM-E

PCW

Respondent Nueces County Water Control and Improvement District No. 5

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609543

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011583001, Operational Requirements No. 1

Violation Description Failed to ensure that the Facility and all its systems of collection, treatment, and disposal are properly operated and maintained, as documented during an investigation conducted on January 14, 2010. Specifically, dried sludge was observed on the ground outside the sludge drying bed and the clarifiers were not equipped with skimmers, allowing scum to accumulate in them.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
				0%

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed protective levels as result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 30

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 from the investigation date (January 14, 2010) to the screening date (February 12, 2010).

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDRP/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

Estimated EB Amount \$51

Statutory Limit Test

Violation Final Penalty Total \$1,900

This violation Final Assessed Penalty (adjusted for limits) \$1,900

Economic Benefit Worksheet

Respondent Nueces County Water Control and Improvement District No. 5
Case ID No. 39190
Reg. Ent. Reference No. RN101609543
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$1,000	14-Jan-2010	1-Oct-2010	0.71	\$2	\$47	\$50
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	\$500	14-Jan-2010	28-Jan-2010	0.04	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of approximately 20 tons of dried sludge at an authorized facility and to obtain equipment and make necessary repairs to the clarifier. Date required is the investigation date. Final dates are the dates the sludge was disposed of (January 28, 2010) and the expected date repairs to the clarifier will be completed (October 1, 2010).

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	\$1,500	TOTAL	\$51
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Screening Date 12-Feb-2010

Docket No. 2010-0226-MLM-E

PCW

Respondent Nueces County Water Control and Improvement District No. 5

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609543

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. WQ0011583001, Effluent Limitations and Monitoring Requirements No. 4 and Permit Conditions No. 2.d

Violation Description Failed to prevent a discharge of solids into the receiving stream, as documented during an investigation conducted on January 14, 2010. Specifically, sludge had washed out of the clarifier, through the outfall, and into Banquete Creek.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> 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 this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 30

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the investigation date (January 14, 2010) to the screening date (February 12, 2010).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDP RP/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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$4,750

This violation Final Assessed Penalty (adjusted for limits) \$4,750

Economic Benefit Worksheet

Respondent Nueces County Water Control and Improvement District No. 5
Case ID No. 39190
Reg. Ent. Reference No. RN101609543
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	\$250	14-Jan-2010	1-Oct-2010	0.71	\$9	n/a	\$9
Remediation/Disposal	\$225	14-Jan-2010	22-Jan-2010	0.02	\$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

Estimated cost to update operational guidance and conduct employee training to ensure that all municipal solid waste sludge is disposed of in an authorized manner (Training/Sampling). Date required is the investigation date. Final date is the expected date of compliance. Actual cost for Ren Services to remove approximately 5,460 gallons of sludge from Banquete Creek (Remediation/Disposal). Date required is the investigation date. Final date is the date the sludge was removed from the creek.

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

\$475

TOTAL

\$9

Screening Date 12-Feb-2010

Docket No. 2010-0226-MLM-E

PCW

Respondent: Nueces County Water Control and Improvement District No. 5

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609543

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011583001, Effluent Limitations and Monitoring Requirements No. 2

Violation Description

Failed to maintain compliance with the permitted effluent limit for chlorine residual, as documented during an investigation conducted on January 14, 2010. Specifically, a sample collected during the investigation revealed a chlorine residual of 0.18 milligrams per liter ("mg/L"). The minimum required chlorine residual is 1.0 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm		Percent
		Major	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 30

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 from the investigation date (January 14, 2010) to the screening date (February 12, 2010).

Good Faith Efforts to Comply

10.0% Reduction

\$100

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

Notes The Respondent returned to compliance by February 26, 2010.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,800

This violation Final Assessed Penalty (adjusted for limits) \$1,800

Economic Benefit Worksheet

Respondent: Nueces County Water Control and Improvement District No. 5
Case ID No.: 39190
Reg. Ent. Reference No.: RN101609543
Media: Water Quality
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$972	14-Jan-2010	26-Feb-2010	0.12	\$0	\$8	\$8
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: Actual cost to determine cause of non-compliance (\$188) and to purchase necessary equipment and make repairs to the chlorinator (\$784). Date required is the investigation date. Final date is the date compliance was achieved.

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	\$972	TOTAL	\$8
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Screening Date 12-Feb-2010

Docket No. 2010-0226-MLM-E

PCW

Respondent Nueces County Water Control and Improvement District No. 5

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609543

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(f) and TPDES Permit No. WQ0011583001, Sludge Provisions

Violation Description

Failed to timely submit the annual sludge report ("ASR"), as documented during an investigation conducted on January 14, 2010. Specifically, a sludge report is due by September 1 of each year, and the Respondent did not submit the required report until January 29, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 30

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$190

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

Economic Benefit Worksheet

Respondent Nueces County Water Control and Improvement District No. 5
Case ID No. 39190
Reg. Ent. Reference No. RN101609543
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				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)	\$500	14-Jan-2010	29-Jan-2010	0.04	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to prepare and submit the annual sludge report. Date required is the investigation date. Final date is the date compliance was achieved.

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 \$500

TOTAL \$1

Screening Date 12-Feb-2010

Docket No. 2010-0228-MLM-E

PCW

Respondent Nueces County Water Control and Improvement District No. 5

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609543

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.7(c), and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 3.b

Violation Description

Failed to retain records of monitoring and reporting, including calibration records, at the Facility, as documented during an investigation conducted on January 14, 2010. Specifically, calibration records for the dissolved oxygen ("DO") meter were not available for review at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential			0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				X	1%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 30

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$25

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

Notes The Respondent returned to compliance by January 29, 2010.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$165

This violation Final Assessed Penalty (adjusted for limits) \$165

Economic Benefit Worksheet

Respondent: Nueces County Water Control and Improvement District No. 5
Case ID No.: 39190
Reg. Ent. Reference No.: RN101609543
Media: Water Quality
Violation No.: 5

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$150	14-Jan-2010	29-Jan-2010	0.04	\$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

Estimated cost to maintain calibration records for the DO meter. Date required is the investigation date. Final date is the date compliance was achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

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

\$150

TOTAL

\$0

Screening Date 12-Feb-2010

Docket No. 2010-0226-MLM-E

PCW

Respondent Nueces County Water Control and Improvement District No. 5

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609543

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 7.d

Violation Description

Failed to report all effluent limitation violations on the approved self-report form, as documented during an investigation conducted on January 14, 2010. Specifically, discharge monitoring reports ("DMRs") from July 2008 through February 2009 did not include the number of DO violations for each month.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 8 Number of violation days 212

daily	
weekly	
monthly	
quarterly	
semannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$800

Eight single events are recommended.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EOPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent returned to compliance by January 29, 2010.

\$200

Violation Subtotal \$600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$1,320

This violation Final Assessed Penalty (adjusted for limits) \$1,320

Economic Benefit Worksheet

Respondent Nueces County Water Control and Improvement District No. 5
Case ID No. 39190
Reg. Ent. Reference No. RN101609543
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	OneTime Costs	EB Amount
<i>No commas or \$</i>							
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)	\$100	20-Aug-2008	29-Jan-2010	1.44	\$7	n/a	\$7

Notes for DELAYED costs
 Estimated cost to revise DMRs to include the number of permit exceedances for DO. Date required is date the first DMR was due. Final date is the date compliance was achieved.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	OneTime Costs	EB Amount
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
 (Empty box for notes)

Approx. Cost of Compliance **TOTAL**
\$100 \$7

Screening Date 12-Feb-2010

Docket No. 2010-0226-MLM-E

PCW

Respondent Nueces County Water Control and Improvement District No. 5

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609543

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.11(c), and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 2.a

Violation Description

Failed to analyze effluent according to the test methods specified in 40 Code of Federal Regulations Part 136 or more recent editions of Standard Methods for the Examination of Water and Wastewater, as documented during an investigation conducted on January 14, 2010. Specifically, manganese corrections were not being performed on chlorine analyses of the treated effluent.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			X	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed protective levels as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$125

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

Notes

The Respondent returned to compliance by January 14, 2010.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$825

This violation Final Assessed Penalty (adjusted for limits) \$825

Economic Benefit Worksheet

Respondent: Nueces County Water Control and Improvement District No. 5
Case ID No.: 39190
Reg. Ent. Reference No.: RN101809543
Media: Water Quality
Violation No.: 7

Percent Interest	Years of Depreciation
5.0	15

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

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	\$100	14-Jan-2010	14-Jan-2010	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

Estimated cost to update operational guidance and purchase necessary supplies to ensure that the manganese correction is being conducted. Date required is the investigation date. Final date is the date compliance was achieved.

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

\$100

TOTAL

\$0

Screening Date 12-Feb-2010

Docket No. 2010-0226-MLM-E

PCW

Respondent Nueces County Water Control and Improvement District No. 5

Policy Revision 2 (September 2002)

Case ID No. 39190

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101609543

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 330.15(a)

Violation Description

Failed to prevent the unauthorized transportation and disposal of municipal solid waste, as documented during an investigation conducted on January 14, 2010. Specifically, the Respondent contracted a transporter to remove sludge from Banquete Creek. The transporter is not registered with the TCEQ. Additionally, the sludge (5,480 gallons) was disposed of at an injection well permitted by the Texas Railroad Commission for the disposal of brine water generated from oil and gas exploration.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		25%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Wastewater sludge was disposed of in an injection well authorized to receive only brine water. Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

1

30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended from the investigation date (January 14, 2010) to the screening date (February 12, 2010).

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$459

Violation Final Penalty Total \$4,750

This violation Final Assessed Penalty (adjusted for limits) \$4,750

Economic Benefit Worksheet

Respondent Nueces County Water Control and Improvement District No. 5
Case ID No. 39190
Reg. Ent. Reference No. RN101609543
Media Water Quality
Violation No. 8

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	\$250	14-Jan-2010	1-Oct-2010	0.71	\$9	n/a	\$9
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

Estimated cost to update operational guidance and conduct employee training to ensure that all municipal solid waste is transported and disposed of in an authorized manner. Date required is the investigation date. 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]	\$450	14-Jan-2010	22-Jan-2010	0.00	\$0	\$450	\$450
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost avoided by allowing sludge to be disposed of at an unauthorized location (\$75 per 1000 gallons, approximately 5,460 gallons total). Date required is the investigation date. Final date is the date of the unauthorized disposal.

Approx. Cost of Compliance

\$700

TOTAL

\$459

Compliance History Report

Customer/Respondent/Owner-Operator: CN600738645 Nueces County Water Control and Improvement District No. 5 Classification: AVERAGE Rating: 0.97

Regulated Entity: RN101609543 BANQUETE PLANT Classification: AVERAGE Site Rating: 0.97

ID Number(s): WASTEWATER PERMIT WQ0011583001
WASTEWATER PERMIT TPDES0054291
WASTEWATER PERMIT TX0054291
WASTEWATER LICENSING LICENSE WQ0011583001

Location: Located at the crossing of Banquete Creek and CR 40, approx. 1.25 mi. east of FM 666 and 0.5 mi. south of SH 44 near Banquete, Nueces Co., Tx

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 09, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 09, 2005 to February 09, 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
See addendum for information regarding federal actions.
- 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 | 03/16/2005 | (384502) |
| 2 | 03/16/2005 | (384503) |
| 3 | 03/24/2005 | (375154) |
| 4 | 04/18/2005 | (581805) |
| 5 | 05/18/2005 | (581807) |
| 6 | 06/13/2005 | (581808) |
| 7 | 07/19/2005 | (581810) |
| 8 | 08/15/2005 | (581813) |
| 9 | 08/22/2005 | (401846) |
| 10 | 09/09/2005 | (581814) |

11 10/07/2005 (581816)
 12 11/17/2005 (581817)
 13 12/19/2005 (581819)
 14 02/08/2006 (453112)
 15 02/13/2006 (581801)
 16 03/08/2006 (581803)
 17 04/17/2006 (581806)
 18 09/18/2006 (770088)
 19 10/16/2006 (770090)
 20 11/13/2006 (581818)
 21 12/11/2006 (581820)
 22 01/08/2007 (581821)
 23 02/06/2007 (581802)
 24 02/20/2007 (537381)
 25 03/19/2007 (581804)
 26 04/16/2007 (770079)
 27 05/10/2007 (770082)
 28 06/04/2007 (581809)
 29 07/09/2007 (581811)
 30 08/15/2007 (770086)
 31 09/17/2007 (608231)
 32 10/15/2007 (608232)
 33 11/13/2007 (770092)
 34 01/03/2008 (770094)
 35 01/12/2008 (770096)
 36 02/19/2008 (770075)
 37 03/21/2008 (770078)
 38 04/14/2008 (770080)
 39 05/15/2008 (770083)
 40 06/16/2008 (770084)
 41 07/11/2008 (770085)
 42 08/18/2008 (770087)
 43 09/15/2008 (770089)
 44 10/16/2008 (770091)
 45 11/17/2008 (770093)
 46 12/15/2008 (770095)
 47 01/22/2009 (770097)
 48 02/18/2009 (770076)
 49 03/23/2009 (770077)
 50 04/20/2009 (770081)
 51 08/25/2009 (762876)
 52 12/16/2009 (784103)
 53 02/04/2010 (789098)

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

Date:	03/25/2005 (375154)	CN600738645
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES PERMIT No. 11583-001 PERMIT	
Description:	Failure to operate the facility to maintain compliance with the permit effluent limitations.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) TPDES PERMIT No. 11583-001 PERMIT	
Description:	Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 317 317.4(a)(8)	
Description:	Failure to test the backflow prevention device at the wastewater treatment plant annually.	

Date: 06/30/2005 (581810) CN600738645
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (581813) CN600738645
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (581816) CN600738645
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006 (770090) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/21/2007 (537381) CN600738645
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Interim Effluent Limitations, No 2, Pg 2 PERMIT
Description: Failure to operate the facility to maintain compliance with the permitted effluent limitations.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Interim Effluent Limitations, No 1, Pg 2 PERMIT
Description: Failure to comply with the daily average flow effluent limitation.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
Monitoring Requirements, No 3(c), Pg 5 PERMIT
Description: Failure to maintain complete records of monitoring activities.

Date: 06/30/2007 (581811) CN600738645
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (770086) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (770075) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2008 (770087) CN600738645

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

Date: 08/31/2008 (770089) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2008 (770091) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2008 (770093) CN600738645
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: 11/30/2008 (770095) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2008 (770097) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2009 (770076) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2009 (770077) CN600738645
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/25/2009 (762876) CN600738645
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements 1. (page 9) PERMIT
Description: Failure to at all times ensure that sludge drying beds are properly operated and maintained.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Sludge Provisions Sec. III. G. (page 22) PERMIT
Description: Failure to report to the TCEQ Regional Office (MC Region 14) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year items 1-9 listed on page 22 of TPDES Permit No. WQ0011583-001.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements 1. (page 9) PERMIT		
Description:	Failure to at times ensure that oxidation ditch is properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements 1. (page 9) PERMIT		
Description:	Failure to at all times ensure that the clarifier is properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Final Effluent Limitations 2. (page 2) PERMIT		
Description:	Failure to ensure the effluent contains a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Final Effluent Limitations 6. (page 2) PERMIT		
Description:	Failure to ensure that the effluent contains a minimum dissolved oxygen of 4.0 mg/L.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to retain all records and information resulting from the required monitoring activities, including but not limited to, all records concerning measurements and analyses performed and concerning calibration and maintenance of flow measurement and other instrumentation, for a minimum of three years, or for a longer period if requested by the executive director or his designee.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting 7.(d) (page 6) PERMIT		
Description:	Failure to report effluent limitation violations on the approved self-report form.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.128 Monitoring and Reporting 10. (page 6) PERMIT		
Description:	Failure to ensure all reports and other information requested from the executive director are signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(c)		
Description:	Failure to analyze effluents according to test methods specified in 40 CFR Part 136 or more recent editions of Standard Methods for the Examination of Water and Wastewater than those cited in Part 136.		

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
NUECES COUNTY WATER CONTROL
AND IMPROVEMENT DISTRICT NO. 5
RN101609543**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0226-MLM-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 Nueces County Water Control and Improvement District No. 5 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and 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 at the crossing of Banquete Creek and County Road 40, approximately 1.25 miles east of Farm-to-Market Road

666 and 0.5 mile south of State Highway 44 near Banquete in Nueces 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 Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. During an investigation on January 14, 2010, TCEQ staff observed dried sludge on the ground outside the sludge drying bed, and a scum accumulation in the clarifiers caused by a lack of clarifier skimmers.
5. During an investigation on January 14, 2010, TCEQ staff observed that sludge solids had washed out of the clarifier and entered Banquete Creek.
6. During an investigation on January 14, 2010, TCEQ staff documented non-compliance with the permitted effluent limit for chlorine residual. A sample collected during the investigation revealed a chlorine residual of 0.18 milligrams per liter ("mg/L"). The permitted minimum chlorine residual is 1.0 mg/L.
7. During an investigation on January 14, 2010, TCEQ staff documented that the Annual Sludge Report ("ASR") for the annual monitoring period ending July 31, 2009, was not submitted to the TCEQ by September 1, 2009.
8. During an investigation on January 14, 2010, TCEQ staff documented that calibration records for the dissolved oxygen ("DO") meter were not available for review.
9. During an investigation on January 14, 2010, TCEQ staff documented that the discharge monitoring reports ("DMRs") for the months of July 2008 through February 2009 did not include the number of DO permit exceedances.
10. During an investigation on January 14, 2010, TCEQ staff documented that manganese corrections were not being performed on chlorine analyses of the treated effluent.
11. During an investigation on January 14, 2010, TCEQ staff documented that the Respondent contracted a transporter, not authorized by the TCEQ, to remove sludge from Banquete Creek. The transporter then disposed of the sludge at an injection well permitted by the Texas Railroad Commission for the disposal of brine water generated from oil and gas exploration.
12. The Respondent received notice of the violations on February 8, 2010.
13. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By January 14, 2010, updated operational guidance and purchased necessary supplies to begin conducting the manganese correction on chlorine analyses of treated effluent;

- b. By January 28, 2010, removed and properly disposed of the sludge accumulated in and outside the sludge drying bed;
- c. By January 29, 2010, submitted the ASR, began maintaining calibration records for the DO meter, and submitted revised DMRs for the months of July 2008 through February 2009; and
- d. By February 26, 2010, repaired the chlorinator.

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. 4, the Respondent failed to ensure that the Facility and all its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011583001, Operational Requirements No. 1.
3. As evidenced by Findings of Fact No. 5, the Respondent failed to prevent a discharge of solids into the receiving stream, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011583001, Effluent Limitations and Monitoring Requirements No. 4 and Permit Conditions No. 2.d.
4. As evidenced by Findings of Fact No. 6, the Respondent failed to maintain compliance with permitted effluent limits for chlorine residual, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011583001, Effluent Limitations and Monitoring Requirements No. 2.
5. As evidenced by Findings of Fact No. 7, the Respondent failed to submit the ASR for the annual monitoring period ending July 31, 2009, by September 1, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0011583001, Sludge Provisions.
6. As evidenced by Findings of Fact No. 8, the Respondent failed to retain records of monitoring and reporting, including calibration records, at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(c), and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 3.b.
7. As evidenced by Findings of Fact No. 9, the Respondent failed to report all effluent limitation violations on the approved self-report form, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 7.d.
8. As evidenced by Findings of Fact No. 10, the Respondent failed to analyze effluent according to the test methods specified in 40 CODE OF FEDERAL REGULATIONS Part 136 or more recent editions of Standard Methods for the Examination of Water and Wastewater, in violation of 30

TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c), and TPDES Permit No. WQ0011583001, Monitoring and Reporting Requirements No. 2.a.

9. As evidenced by Findings of Fact No. 11, the Respondent failed to prevent the unauthorized transportation and disposal of municipal solid waste ("MSW"), in violation of 30 TEX. ADMIN. CODE § 330.15(a).
10. 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.
11. An administrative penalty in the amount of Fifteen Thousand Seven Hundred Dollars (\$15,700) 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 Four Hundred Seventy Five Dollars (\$475) of the administrative penalty. The remaining amount of Fifteen Thousand Two Hundred Twenty-Five Dollars (\$15,225) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Thirty-Five Dollars (\$435) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Fifteen Thousand Seven Hundred Dollars (\$15,700) as set forth in Section II, Paragraph 11 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: Nueces County Water Control and Improvement District No. 5, Docket No. 2010-0226-MLM-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 Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order:
 - i. Make repairs to the clarifier to prevent unauthorized discharges of sludge; and
 - ii. Update operational guidance and conduct employee training to ensure that all MSW and MSW sludge is transported and disposed of in an authorized manner.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i and 2.a.ii. 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:

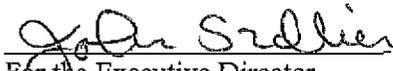
Water Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/19/2010
Date

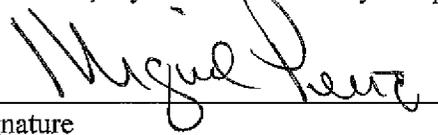
I, the undersigned, have read and understand the attached Agreed Order in the matter of Nueces County Water Control and Improvement District No. 5. I am authorized to agree to the attached Agreed Order on behalf of Nueces County Water Control and Improvement District No. 5, and do agree to the specified 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, Nueces County Water Control and Improvement District No. 5 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.



Signature

5-12-2010
Date

Miguel Pena

Name (Printed or typed)
Authorized Representative of
Nueces County Water Control and Improvement District No. 5

Board 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.

