

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1727-MWD-E **TCEQ ID:** RN101614030 **CASE NO.:** 38560

RESPONDENT NAME: Orange County Water Control and Improvement District No. 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: West Orange Plant, located on the north side of Western Avenue in West Orange, from Adams Bayou west to Boston Avenue (from 1,000 feet to 2,400 feet east of Western Avenue/Dayton Street), Orange County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 19, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Johnny Caswell, Manager, Orange County Water Control and Improvement District No. 2, P.O. Box 278, Orange, Texas 77631 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 2, 2009 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for biochemical oxygen demand, total copper, total suspended solids, and total zinc [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$14,550</p> <p>Total Deferred: \$2,910 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$11,640</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0010240001, 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 limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision.</p>

Additional ID No(s): WQ0010240001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	21-Dec-2009	Screening	23-Dec-2009	EPA Due	5-Sep-2009
	PCW	23-Dec-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Orange County Water Control and Improvement District No. 2
Reg. Ent. Ref. No.	RN101614030
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38560	No. of Violations	2
Docket No.	2009-1727-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes:

Culpability **Subtotal 4**

Notes:

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

Economic Benefit **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes:

PAYABLE PENALTY

Screening Date 23-Dec-2009

Docket No. 2009-1727-MWD-E

PCW

Respondent Orange County Water Control and Improvement District I

Policy Revision 2 (September 2002)

Case ID No. 38560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614030

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	15	75%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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) 97%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced due to 14 self-reported monthly effluent violations, one NOV with similar violations to those cited in this action, one NOV with unrelated violations, and one final agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 97%

Screening Date 23-Dec-2009

Docket No. 2009-1727-MWD-E

PCW

Respondent Orange County Water Control and Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 38560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614030

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on July 9, 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 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Total suspended solids and total zinc were considered to determine whether the discharged amounts of pollutants exceeded protective levels. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended for the quarter containing the months of November 2008 and January 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/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 \$553

Violation Final Penalty Total \$4,850

This violation Final Assessed Penalty (adjusted for limits) \$4,850

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 2
Case ID No. 38560
Reg. Ent. Reference No. RN101614030
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
<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	\$5,000	30-Nov-2008	30-Jun-2010	1.58	\$26	\$527	\$553
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

Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$553

Screening Date 23-Dec-2009

Docket No. 2009-1727-MWD-E

PCW

Respondent Orange County Water Control and Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 38580

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614030

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on July 9, 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

Biochemical oxygen demand, total copper, and total suspended solids were considered to determine whether the discharged amounts of pollutants exceeded protective levels. Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One monthly event is recommended for the month of December 2008.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$9,550

This violation Final Assessed Penalty (adjusted for limits) \$9,550

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 2
Case ID No. 38580
Reg. Ent. Reference No. RN101614030
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit associated with violation number one.

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

EFFLUENT VIOLATION TABLE										
Orange County Water Control and Improvement District No. 2										
TPDES Permit No. WQ0010240001										
Docket No. 2009-1727-MWD-E										
Months	BOD Daily Max. Conc.	Total Copper Daily Avg. Conc.	Total Copper Daily Max. Conc.	Total Copper Daily Avg. Loading	TSS Daily Avg. Conc.	TSS Daily Max. Conc.	TSS Daily Avg. Loading	Total Zinc Daily Avg. Conc.	Total Zinc Daily Max. Conc.	Total Zinc Daily Avg. Loading
	Limit = 25 mg/L	Limit = 0.0087 mg/L	Limit = 0.018 mg/L	Limit = 0.0089 lbs/day	Limit = 15 mg/L	Limit = 40 mg/L	Limit = 153 lbs/day	Limit = 0.076 mg/L	Limit = 16 mg/L	Limit = 0.77 lbs/day
11/30/2008	c	c	c	c	c	61	c	c	c	c
12/31/2008	33	0.0177	0.07	0.165	56	463	807	c	c	c
1/31/2009	c	c	c	c	16	71	c	0.089	0.29	0.78

BOD = biochemical oxygen demand
 conc. = concentration
 lbs/day = pounds per day
 c = compliant

avg. = average
 mg/L = milligrams per liter
 max. = maximum
 TSS = total suspended solids

15	05/22/2006	(501513)
16	07/18/2006	(523761)
17	08/21/2006	(523762)
18	09/18/2006	(548761)
19	09/18/2006	(603465)
20	10/16/2006	(548762)
21	11/27/2006	(548763)
22	12/21/2006	(548764)
23	01/22/2007	(548765)
24	02/16/2007	(582017)
25	03/22/2007	(582018)
26	04/20/2007	(582019)
27	05/21/2007	(582020)
28	06/23/2007	(582021)
29	07/20/2007	(603466)
30	08/14/2007	(603467)
31	10/08/2007	(594831)
32	10/19/2007	(621926)
33	10/22/2007	(621929)
34	11/07/2007	(599401)
35	11/09/2007	(621927)
36	12/07/2007	(621925)
37	01/02/2008	(621928)
38	01/24/2008	(614207)
39	02/05/2008	(613824)
40	02/19/2008	(673840)
41	03/17/2008	(692086)
42	04/17/2008	(692087)
43	04/18/2008	(692089)
44	05/19/2008	(692088)
45	06/20/2008	(713157)
46	08/15/2008	(713158)
47	10/03/2008	(729291)
48	10/23/2008	(729292)
49	12/09/2008	(729293)
50	12/22/2008	(729294)
51	02/03/2009	(752496)
52	02/11/2009	(725351)
53	02/23/2009	(752494)
54	03/16/2009	(752495)
55	04/17/2009	(742076)
56	04/30/2009	(770138)
57	05/13/2009	(705791)
58	10/02/2009	(761677)
59	01/28/2010	(786655)

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

Date: 05/31/2006 (603465) CN600738751
 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: 08/31/2006 (548761) CN600738751
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2007 (582017) CN600738751
 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	CN600738751	Classification:	Moderate
Date:	04/30/2007 (582020)			
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter	CN600738751	Classification:	Moderate
Date:	06/30/2007 (603466)			
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter	CN600738751	Classification:	Moderate
Date:	07/31/2007 (603467)			
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter	CN600738751	Classification:	Moderate
Date:	09/30/2007 (621926)			
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter	CN600738751	Classification:	Moderate
Date:	11/30/2007 (621928)			
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter	CN600738751	Classification:	Moderate
Date:	12/31/2007 (621929)			
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter	CN600738751	Classification:	Moderate
Date:	01/31/2008 (673840)			
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter	CN600738751	Classification:	Minor
Date:	02/05/2008 (613824)			
Self Report?	NO			
Citation:	M&RR, No. 3c PERMIT			
Description:	Failure by the permittee to maintain records of monitoring activities (time effluent pH and DO are collected and analyzed).		Classification:	Minor
Self Report?	NO			
Citation:	MR&R, No. 7c PERMIT			
Description:	Failure by the permittee to submit 40% noncompliance notifications in a timely manner to the Regional office.		Classification:	Moderate
Self Report?	NO			
Citation:	OT, No. 7 PERMIT			
Description:	Failure to report effluent metals noncompliances within 24 hours of becoming aware (Copper).		Classification:	Minor
Self Report?	NO			
Citation:	M&RR 3c PERMIT			
Description:	Failure to maintain records of monitoring activities. (partial pH and DO calibration records)			

Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure to provide hose bib vacuum breakers at potable water connections with in the wastewater treatment plant.		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (Uneven and gapping weir teeth)		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (Smith St. and South St. lift stations not secured)		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (Bishop St. grinder no alarms and excessive vegetation.)		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (Excessive grease in Crockett St. lift station)		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (WWTP fence barbed wire down)		
Date:	07/31/2008	(713158)	CN600738751
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	(729294)	CN600738751
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	(752496)	CN600738751
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	(752494)	CN600738751
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:	01/29/2010	(786655)	CN600738751
Self Report?	NO	Classification:	Moderate
Citation:	EL&MR PERMIT		
Description:	Failure by OCWCID 2 to comply with self-monitored effluent limitations.		
Self Report?	NO	Classification:	Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by OCWCID 2 to ensure that all systems of collection, treatment, and disposal are properly operated and maintained: bar screenings not adequately managed.		

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
ORANGE COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 2
RN101614030

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1727-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Orange County Water Control and Improvement District No. 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located on the north side of Western Avenue in West Orange, from Adams Bayou west to Boston Avenue (from 1000 feet to 2400 feet east of Western Avenue/Dayton Street) in Orange County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 7, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fourteen Thousand Five Hundred Fifty Dollars (\$14,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Six Hundred Forty Dollars (\$11,640) of the administrative penalty and Two Thousand Nine Hundred Ten Dollars (\$2,910) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 9, 2009 and shown in the following table:

EFFLUENT VIOLATION TABLE										
Months	BOD Daily Max Conc	Total Copper Daily Avg Conc	Total Copper Daily Max Conc	Total Copper Daily Avg Loading	TSS Daily Avg Conc	TSS Daily Max Conc	TSS Daily Avg Loading	Total Zinc Daily Avg Conc	Total Zinc Daily Max Conc	Total Zinc Daily Avg Loading
	Limit = 25 mg/L	Limit = 0.0087 mg/L	Limit = 0.018 mg/L	Limit = 0.0089 lbs/day	Limit = 15 mg/L	Limit = 40 mg/L	Limit = 153 lbs/day	Limit = 0.076 mg/L	Limit = 16 mg/L	Limit = 0.77 lbs/day
11/30/2008	c	c	c	c	c	61	c	c	c	c
12/31/2008	33	0.0177	0.07	0.165	56	463	807	c	c	c
1/31/2009	c	c	c	c	16	71	c	0.089	0.29	0.78

BOD = biochemical oxygen demand

conc. = concentration

lbs/day = pounds per day

c = compliant

avg. = average

mg/L = milligrams per liter

max. = maximum

TSS = total suspended solids

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Orange County Water Control and Improvement District No. 2, Docket No. 2009-1727-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 limits of TPDES Permit No. WQ0010240001, 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 limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Rollin

For the Executive Director

7/1/2010

Date

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

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

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

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

u
Johnny Caswell

Signature

5-11-2010

Date

Johnny Caswell

Name (Printed or typed)
Authorized Representative of
Orange County Water Control and Improvement District No. 2

MANAGER

Title

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