

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2008-0117-MWD-E RN104416417 CASE NO. 27329
RESPONDENT NAME: CARDINAL MEADOWS IMPROVEMENT DISTRICT

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

SITES WHERE VIOLATIONS OCCURRED: lift stations located (1) at or near the intersection of Hillebrandt Road and Smokey Lane; (2) at or near Hillebrandt Road between Cactus Avenue and Ronnie Avenue; and (3) at or near the intersection of Smokey Lane and Cactus Avenue, Beaumont, Jefferson County, Texas

TYPE OF OPERATION: sewage collection system with three lift stations

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired September 20, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Water Enforcement Section, MC 128, (512) 239-2576

TCEQ Regional Contact: Mr. Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondent: Mr. Paul Ladet, President, Cardinal Meadows Improvement District, 749 Hillebrandt Road,
Beaumont, Texas 77705

Respondent's Attorney: Mr. Hubert Oxford, IV, Benckenstein & Oxford, L.L.P., P.O. Drawer 150, Beaumont, Texas 77704

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 14, 2007</p> <p>Date of NOE Relating to this Case: December 20, 2007</p> <p>Background Facts: The EDPRP was filed on May 15, 2008. The EDFARP was filed on September 18, 2009. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on June 28, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MWD:</p> <ol style="list-style-type: none"> Failed to provide all of the Facility's lift stations with operational audiovisual alarm systems [30 TEX. ADMIN. CODE § 317.3(e)(5)¹ and TCEQ Agreed Order Docket No. 2005-1866-MWD-E, Ordering Provision 2.a.]. Failed to provide all of the Facility's lift stations with firm pumping capacity such that the expected peak flow can be pumped to its desired destination (firm pumping capacity is defined as total station maximum pumping capacity with the largest pumping unit out of service) [30 TEX. ADMIN. CODE § 317.3(c)(2) and TCEQ Agreed Order Docket No. 2005-1866-MWD-E, Ordering Provision 2.b.]. <p>¹ 30 TEX. ADMIN. CODE ch. 317 was repealed on August 22, 2008. Pursuant to TEX. GOV'T CODE § 311.031, Savings Clause, Respondent remains responsible to comply with the necessary corrective actions requirements under 30 TEX. ADMIN. CODE ch. 317.</p>	<p>Initial Calculated Penalty: \$19,880</p> <p>Total Assessed: \$9,600</p> <p>Total Deferred: \$10,280</p> <p><input type="checkbox"/> Expedited Order <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$290/\$9,310</p> <p>Respondent paid \$290 of the administrative penalty. The remaining amount of \$9,310 shall be payable in 35 monthly payments of \$266 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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 Order Justification: Poor Performer with more than three enforcement actions for the same violation in the previous five-year period.</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, provide operational audiovisual alarm systems at all of the Facility's lift stations. Within 60 days, provide a firm pumping capacity (defined as total station maximum pumping capacity with the largest pumping unit out of service) for all of the Facility's lift stations. Within 75 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	3-Jan-2008			
	PCW	19-Apr-2010	Screening	15-Jan-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Cardinal Meadows Improvement District				
Reg. Ent. Ref. No.	RN104416417				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	27329	No. of Violations	2		
Docket No.	2008-0117-MWD-E	Order Type	Findings		
Media Program(s)	Water Quality	Enf. Coordinator	Thomas Jecha		
Multi-Media		EC's Team	Enforcement Team 3		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$14,000
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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	42% Enhancement	Subtotals 2, 3, & 7	\$5,880
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Notes

Enhancement for poor performer status and two NOV's with same or similar violations, one NOV with dissimilar violations, and one Agreed Order with a denial of liability issued to the facility within the past five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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.

Total EB Amounts	\$758	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$4,700	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$19,880
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$19,880
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,880
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DEFERRAL	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	\$19,880
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Screening Date 15-Jan-2008

Docket No. 2008-0117-MWD-E

PCW

Respondent Cardinal Meadows Improvement District

Policy Revision 2 (September 2002)

Case ID No. 27329

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN104416417

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

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 (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 32%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for poor performer status and two NOVs with same or similar violations, one NOV with dissimilar violations, and one Agreed Order with a denial of liability issued to the facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 15-Jan-2008

Docket No. 2008-0117-MWD-E

PCW

Respondent Cardinal Meadows Improvement District

Policy Revision 2 (September 2002)

Case ID No. 27329

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN104416417

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 1

Rule Cite(s) TCEQ Agreed Order Docket No. 2005-1866-MWD-E (Ordering Provision 2.a.) and 30 Tex. Admin. Code § 317.3(e)(5)

Violation Description Failed to provide operational audiovisual alarm systems for all lift stations. Specifically, the Facility's audiovisual alarm systems for lift station No. 1 and lift station No. 3 were not operational.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 7 630 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,000

Seven quarterly events are recommended from the May 28, 2006 effective date of the Agreed Order until the January 16, 2008 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$242

Violation Final Penalty Total \$9,940

This violation Final Assessed Penalty (adjusted for limits) \$9,940

Economic Benefit Worksheet

Respondent Cardinal Meadows Improvement District
Case ID No. 27329
Reg. Ent. Reference No. RN104416417
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$1,500	28-May-2006	15-Sep-2008	2.3	\$12	\$230	\$242
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install audiovisual alarms on the No. 1 and 2 lift stations. The date required is the May 28, 2006 order effective date and the final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$242

Screening Date 15-Jan-2008 **Docket No.** 2008-0117-MWD-E **PCW**
Respondent Cardinal Meadows Improvement District *Policy Revision 2 (September 2002)*
Case ID No. 27329 *PCW Revision November 6, 2007*
Reg. Ent. Reference No. RN104416417
Media [Statute] Water Quality
Enf. Coordinator Thomas Jecha

Violation Number

Rule Cite(s) TCEQ Agreed Order Docket No. 2005-1866-MWD-E (Ordering Provision 2.b.) and 30 Tex. Admin. Code § 317.3(c)(2)

Violation Description
 Failed to provide lift stations with firm pumping capacity such that the expected peak flow can be pumped to its desired destination (firm pumping capacity is defined as total station maximum pumping capacity with the largest pumping unit out of service). Specifically, lift station No. 1 of the Facility was equipped with only one operational pump and both pumps at lift station No. 3 of the Facility were not operational.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes
 Human health or the environment could be exposed to significant amounts of pollutants as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Seven quarterly events are recommended from the May 28, 2006 effective date of the Agreed Order until the January 16, 2008 screening date.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Cardinal Meadows Improvement District
Case ID No. 27329
Reg. Ent. Reference No. RN104416417
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	\$3,200	28-May-2006	15-Sep-2008	2.3	\$25	\$492	\$516
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for back-up pumps at the No. 1 and 2 lift stations. The date required is the May 28, 2006 order effective date and the date required is the expected date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,200

TOTAL

\$516

Compliance History

Customer/Respondent/Owner-Operator: CN600623987 Cardinal Meadows Improvement District Classification: POOR Rating: 46.50

Regulated Entity: RN104416417 LIFT STATION AT HILDEBRANDT RD AND SMOKEY LN Classification: POOR Site Rating: 46.50

ID Number(s):

Location: CORNER OF SMOKEY LN & HILDEBRANDT RD, BEAUMONT, TX, 77705 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepare: January 15, 2008

Agency Decision Requiring Compliance Enforcement

Compliance Period: January 15, 2003 to January 15, 2008

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

Name: Thomas Jecha Phone: 512 239 2576

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 05/28/2006

ADMINORDER 2005-1866-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: Failed to prevent unauthorized discharges from the collection system.

Classification: Minor

Citation: 30 TAC Chapter 317 317.3(e)(5)

Description: Failure to provide operational audiovisual alarms at the lift station.

Classification: Minor

Citation: 30 TAC Chapter 317 317.3(c)(2)

Description: Failure to provide a firm pumping capacity, defined as total station maximum pumping capacity with

- 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 04/12/2007 (556654)

2 12/20/2007 (612290)

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

Date: 12/09/2004 (342619)

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: Failed to prevent unauthorized discharges from the collection system.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.3(e)(5)

Description: Failure to provide operational audiovisual alarms at the lift station.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.3(c)(2)

Description: Failure to provide a firm pumping capacity, defined as total station maximum pumping capacity with the largest pump out of service, at the lift station.

Date: 05/22/2006 (465433)

Self Report? NO Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure by Cardinal Meadows Improvement District to prevent unauthorized discharges into or adjacent to the waters of the state.

Date: 04/03/2007 (556654)

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: Failed to prevent unauthorized discharges from the collection system.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(e)(5)		
Description:	Failure to provide operational audiovisual alarms at the lift station.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(c)(2)		
Description:	Failure to provide a firm pumping capacity, defined as total station maximum pumping capacity with the largest pump out of service, at the lift station.		
Self Report?	NO	Classification:	Major
Citation:	2A TWC Chapter 7, SubChapter A 7.101		
Rqmt Prov:	ORDER ORDERING PROVISIONS 2.A. - 3.C.		
Description:	Failure to comply with Commission Order Docket # 2005-1866-MWD-E.		

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
CARDINAL MEADOWS
IMPROVEMENT
DISTRICT;
RN104416417**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-0117-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Cardinal Meadows Improvement District (“Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Hubert Oxford, IV, of the law firm Benckenstein & Oxford, L.L.P., presented this agreement to the Commission.

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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a sewage collection system with the main lift station located at the corner of Smokey Lane and Hillebrandt Road in Beaumont, Jefferson County, Texas (“Facility”).
2. Respondent has discharged waste from the Facility into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.

3. During an investigation conducted on December 14, 2007, a TCEQ Beaumont Regional investigator documented that Respondent:
 - a. Failed to provide all of the Facility's lift stations with operational audiovisual alarm systems. Specifically, the lift station located at or near the intersection of Hillebrandt Road and Smokey Lane, Beaumont, Jefferson County, Texas ("Lift Station No. 1"), and the lift station located at or near Hillebrandt Road between Cactus Avenue and Ronnie Avenue, Beaumont, Jefferson County, Texas ("Lift Station No. 2")¹ did not have operational audiovisual alarm systems; and
 - b. Failed to provide all of the Facility's lift stations with firm pumping capacity such that the expected peak flow can be pumped to its desired destination (firm pumping capacity is defined as total station maximum pumping capacity with the largest pumping unit out of service). Specifically, Lift Station No. 1 was equipped with only one operational pump, and both pumps at the lift station located at or near the intersection of Smokey Lane and Cactus Avenue, Beaumont, Jefferson County, Texas ("Lift Station No. 3")¹ were not operational.
4. Respondent received notice of the violations on or about December 25, 2007.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, 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 Finding of Fact No. 3.a., Respondent failed to provide all of the Facility's lift stations with operational audiovisual alarm systems, in violation of 30 TEX. ADMIN. CODE § 317.3(e)(5)² and TCEQ Agreed Order Docket No. 2005-1866-MWD-E, Ordering Provision 2.a.
3. As evidenced by Finding of Fact No. 3.b., Respondent failed to provide all of the Facility's lift stations with firm pumping capacity such that the expected peak flow can be pumped to its desired destination (firm pumping capacity is defined as total station maximum pumping capacity with the largest pumping unit out of service), in violation of 30 TEX. ADMIN. CODE § 317.3(c)(2)² and TCEQ Agreed Order Docket No. 2005-1866-MWD-E, Ordering Provision 2.b.

¹ During an investigation on April 29, 2010, the TCEQ determined that the lift station previously identified as "Lift Station No. 3" in the December 14, 2007, TCEQ investigation has been renumbered as Lift Station No. 2, and the lift station previously identified as "Lift Station No. 2" is now Lift Station No. 3.

² 30 TEX. ADMIN. CODE ch. 317 was repealed on August 22, 2008. At the time of the violations, 30 TEX. ADMIN. CODE ch. 317 remained in effect. Pursuant to TEX. GOV'T CODE § 311.031, Savings Clause, Respondent remains responsible to comply with the necessary corrective actions requirements under 30 TEX. ADMIN. CODE ch. 317.

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against 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.
5. An administrative penalty in the amount of nineteen thousand eight hundred eighty dollars (\$19,880.00) 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 Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay part of the administrative penalty. Therefore, ten thousand two hundred eighty dollars (\$10,280.00) of the penalty is deferred contingent upon 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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, require Respondent to pay all or part of the deferred penalty.

Respondent paid two hundred ninety dollars (\$290.00) of the administrative penalty. The remaining amount of nine thousand three hundred ten dollars (\$9,310.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred sixty-six dollars (\$266.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 Respondent to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Conclusion of Law No. 5, above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and 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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Cardinal Meadows Improvement District; Docket No. 2008-0117-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. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Respondent shall provide operational audiovisual alarm systems at all of the Facility's lift stations, in accordance with 30 TEX. ADMIN. CODE § 317.3(e)(5) and TCEQ Agreed Order Docket No. 2005-1866-MWD-E, Ordering Provision 2.a.;
 - b. Within 60 days after the effective date of this Agreed Order, Respondent shall provide a firm pumping capacity (defined as total station maximum pumping capacity with the largest pumping unit out of service) for all of the Facility's lift stations, in accordance with 30 TEX. ADMIN. CODE § 317.3(c)(2) and TCEQ Agreed Order Docket No. 2005-1866-MWD-E, Ordering Provision 2.b.; and
 - c. Within 75 days after the effective date of this Agreed Order, Respondent shall 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. and 2.b. 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

and

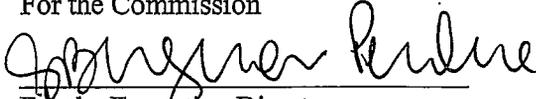
Ronald Hebert, Water Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 Respondent if the Executive Director determines that 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 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/27/2010

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Cardinal Meadows Improvement District. I represent that I am authorized to agree to the attached Agreed Order on behalf of Cardinal Meadows Improvement District ("Respondent"), 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.

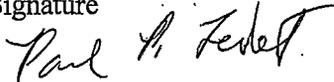
I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on Respondent's compliance history;
- Greater scrutiny of any permit applications submitted by Respondent;
- 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 against Respondent;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Respondent; and
- TCEQ seeking other relief as authorized by law.

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



Signature



Paul Ladet

Name (printed or typed)

Authorized Representative

Cardinal Meadows Improvement District

6/28/2010

Date

Title: President