

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1176-MWD-E **TCEQ ID:** RN102923653 **CASE NO.:** 40062
RESPONDENT NAME: Brazoria County Municipal Utility District No. 21

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Brazoria County MUD 21 WWTP, located at 13717A State Highway 6, approximately two miles southeast of the intersection of State Highway 6 and Farm-to-Market Road 521, Brazoria County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 December 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Dwayne Sparks, President, Brazoria County Municipal Utility District No. 21, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027 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: May 25, 2010</p> <p>Date of NOV/NOE Relating to this Case: July 1, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limitations for total suspended solids and biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014222001 Interim I Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$14,300</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$14,300</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</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:</p> <p>Human health and the environment have been exposed to pollutants which exceed levels that are protective.</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. On January 4, 2010, cleaned out the chlorine contact chamber;</p> <p>b. On January 27, 2010, installed a custom breaker for the back-up power generator;</p> <p>c. By February 23, 2010, repaired and re-installed the clarifier gear drive and cleaned out the clarifier; and</p> <p>d. By March 31, 2010, returned to compliance with the permitted effluent limitations of TPDES Permit No. WQ0014222001.</p>

Additional ID No(s): WQ0014222001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Jul-2010	Screening	21-Jul-2010	EPA Due	
	PCW	19-Jul-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Brazoria County Municipal Utility District No. 21
Reg. Ent. Ref. No.	RN102923653
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40062	No. of Violations	2
Docket No.	2010-1176-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Marty Hott
		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** **\$13,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **35.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,550**

Notes: Enhancement for seven monthly self-reported effluent violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$3,250**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$1,691**
 Approx. Cost of Compliance **\$33,816**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$14,300**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** Reduction **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$14,300**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$14,300**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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 **\$14,300**

Screening Date 21-Jul-2010

Docket No. 2010-1176-MWD-E

PCW

Respondent Brazoria County Municipal Utility District No. 21

Policy Revision 2 (September 2002)

Case ID No. 40062

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102923653

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

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>)	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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</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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 35%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for seven monthly self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

Screening Date: 21-Jul-2010

Docket No.: 2010-1176-MWD-E

PCW

Respondent: Brazoria County Municipal Utility District No. 21

Policy Revision 2 (September 2002)

Case ID No.: 40062

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102923653

Media [Statute]: Water Quality

Enf. Coordinator: Marty Hott

Violation Number: 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014222001 Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on May 25, 2010 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: 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also evaluated. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 3

92 Number of violation days

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

Violation Base Penalty: \$3,000

Three quarterly events are recommended for the quarters which include the months of March 2009, November 2009, and January 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$750

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

Notes: The Respondent achieved compliance by March 31, 2010.

Violation Subtotal: \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$1,691

Violation Final Penalty Total: \$3,300

This violation Final Assessed Penalty (adjusted for limits): \$3,300

Economic Benefit Worksheet

Respondent: Brazoria County Municipal Utility District No. 21
Case ID No.: 40062
Reg. Ent. Reference No.: RN102923653
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:**
Item Description: 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				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)	\$33,816	31-Mar-2009	31-Mar-2010	1.00	\$1,691	n/a	\$1,691

Notes for DELAYED costs

Actual cost provided by the Respondent to evaluate the Facility to determine the cause of the effluent violations and complete corrective actions, including installing a custom breaker for the back-up power generator, cleaning out the chlorine contact chamber, repairing and re-installing the clarifier gear drive, and cleaning the clarifier. Date required is the first month of noncompliance. 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

\$33,816

TOTAL

\$1,691

Screening Date 21-Jul-2010

Docket No. 2010-1176-MWD-E

PCW

Respondent Brazoria County Municipal Utility District No. 21

Policy Revision 2 (September 2002)

Case ID No. 40062

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102923653

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number

2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30-Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0014222001 Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on May 25, 2010 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

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also evaluated. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2

59 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Two monthly events are recommended for the months of December 2009 and February 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

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

Notes The Respondent achieved compliance by March 31, 2010.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$11,000

This violation Final Assessed Penalty (adjusted for limits) \$11,000

Economic Benefit Worksheet

Respondent: Brazoria County Municipal Utility District No. 21
Case ID No.: 40062
Reg. Ent. Reference No.: RN102923653
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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				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 for Violation No. 1.

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

\$0

TOTAL

\$0

Brazoria County Municipal Utility District No. 21
 TPDES Permit No. WQ0014222001
 Docket No. 2010-1176-MWD-E
 Case No. 40062

EFFLUENT VIOLATION TABLE						
Months	5-day BOD Daily Ave. Conc.	5-day BOD Single Grab	5-day BOD Daily Ave. Loading	TSS Daily Ave. Conc.	TSS Single Grab	TSS Daily Ave. Loading
	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 21 lbs/day	Limit = 15 mg/L	Limit = 60 mg/L	Limit = 31 lbs/day
3/31/2009	c	c	c	17.25	c	c
11/30/2009	c	c	c	15.53	c	c
12/31/2009	47.03	170	68.67	31.6	68.8	49.9
1/31/2010	10.96	43.1	c	17.6	132	c
2/28/2010	59.28	225	84.02	43.23	133	62.44

c = compliant mg/L = milligrams per Liter lbs/day = pounds per day TSS = total suspended solids
 ave. = average conc. = concentration BOD = biochemical oxygen demand

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600736367 Brazoria County Municipal Utility District 21	Classification: AVERAGE	Rating: 2.80
Regulated Entity:	RN102923653 BRAZORIA COUNTY MUD 21 WWTP	Classification: AVERAGE	Site Rating: 0.15
ID Number(s):	WASTEWATER EPA ID WASTEWATER PERMIT		TX0123633 WQ0014222001
Location:	13717A STATE HIGHWAY 6, APPROXIMATELY TWO MILES SOUTHEAST OF THE INTERSECTION OF STATE HIGHWAY 6 AND FARM-TO-MARKET ROAD 521, BRAZORIA COUNTY, TEXAS		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	July 07, 2010		
Agency Decision Requiring Compliance History:	Enforcement:		
Compliance Period:	July 07, 2005 to July 07, 2010		

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

Name: Marty Holt Phone: (512) 239-2587

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 judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/22/2005	(447967)
2	08/25/2005	(447968)
3	09/19/2005	(447969)
4	10/18/2005	(493384)
5	11/29/2005	(493385)
6	01/04/2006	(493386)
7	02/03/2006	(493387)
8	02/22/2006	(493382)
9	03/24/2006	(493383)
10	04/24/2006	(506735)
11	05/22/2006	(506736)
12	06/13/2006	(506737)
13	07/13/2006	(506738)
14	07/21/2006	(480109)
15	08/23/2006	(528882)
16	09/14/2006	(528883)
17	10/13/2006	(528884)
18	11/16/2006	(632761)
19	12/13/2006	(632763)
20	01/11/2007	(632765)

21	02/17/2007	{632752}
22	03/14/2007	{632753}
23	04/15/2007	{632754}
24	05/16/2007	{632755}
25	06/13/2007	{632756}
26	07/14/2007	{632757}
27	08/16/2007	{632758}
28	09/14/2007	{632759}
29	10/16/2007	{632760}
30	11/13/2007	{632762}
31	12/18/2007	{632764}
32	01/17/2008	{632766}
33	02/20/2008	{677612}
34	03/18/2008	{677613}
35	04/17/2008	{677614}
36	05/18/2008	{696390}
37	06/17/2008	{696391}
38	07/15/2008	{696392}
39	08/19/2008	{688734}
40	08/28/2008	{718049}
41	09/20/2008	{718050}
42	10/20/2008	{718051}
43	11/20/2008	{733346}
44	12/18/2008	{733347}
45	01/19/2009	{733348}
46	02/20/2009	{756491}
47	03/21/2009	{756492}
48	04/20/2009	{756493}
49	05/20/2009	{773411}
50	06/13/2009	{773412}
51	07/23/2009	{820500}
52	08/30/2009	{820501}
53	09/17/2009	{820502}
54	10/18/2009	{820503}
55	11/18/2009	{820504}
56	12/19/2009	{820505}
57	01/18/2010	{820506}
58	02/20/2010	{820499}
59	07/01/2010	{824653}

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

Date:	11/30/2005	{493386}	CN600736367
Self	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 2D TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2008	{718049}	CN600736367
Self	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:	03/31/2009	{756493}	CN600736367
Self	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:	11/30/2009	{820505}	CN600736367
Self	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 12/31/2009 (820506) CN600736367
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 01/31/2010 (820499) CN600736367
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 02/28/2010 CN600736367
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 21
RN102923653**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1176-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Brazoria County Municipal Utility District No. 21 (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 13717A State Highway 6, approximately two miles southeast of the intersection of State Highway 6 and Farm-to-Market Road 521 in Brazoria County, Texas (the “Facility”).

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on May 25, 2010, TCEQ staff documented that the Respondent did not comply with its permitted effluent limitations, as shown in the table below:

EFFLUENT VIOLATION TABLE						
Months	5-day BOD Daily Ave. Conc.	5-day BOD Single Grab	5-day BOD Daily Ave. Loading	TSS Daily Ave. Conc.	TSS Single Grab	TSS Daily Ave. Loading
	Limit - 10 mg/L	Limit - 35 mg/L	Limit - 21 lbs/day	Limit - 15 mg/L	Limit - 60 mg/L	Limit - 31 lbs/day
3/31/2009	c	c	c	17.25	c	c
11/30/2009	c	c	c	15.53	c	c
12/31/2009	47.03	170	68.67	31.6	68.8	49.9
1/31/2010	10.96	43.1	c	17.6	132	c
2/28/2010	59.28	225	84.02	43.23	133	62.44

c = compliant mg/L = milligrams per Liter lbs/day = pounds per day TSS = total suspended solids
 ave. = average conc. = concentration BOD = biochemical oxygen demand

4. The Respondent received notice of the violations on July 6, 2010.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On January 4, 2010, cleaned out the chlorine contact chamber;
 - b. On January 27, 2010, installed a custom breaker for the back-up power generator;
 - c. By February 23, 2010, repaired and re-installed the clarifier gear drive and cleaned out the clarifier; and
 - d. By March 31, 2010, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014222001.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0014222001 Interim I Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Fourteen Thousand Three Hundred Dollars (\$14,300) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Fourteen Thousand Three Hundred Dollar (\$14,300) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Fourteen Thousand Three Hundred Dollars (\$14,300) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brazoria County Municipal Utility District No. 21, Docket No. 2010-1176-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. 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.

4. 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.
5. 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.
6. 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.
7. 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

John Szollier

For the Executive Director

Date 11/10/2010

I, the undersigned, have read and understand the attached Agreed Order in the matter of Brazoria County Municipal Utility District No. 21. I am authorized to agree to the attached Agreed Order on behalf of Brazoria County Municipal Utility District No. 21, 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, Brazoria County Municipal Utility District No. 21 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]

Signature

9.20.10

Date

DWAYNE SPARKS

Name (Printed or typed)
Authorized Representative of
Brazoria County Municipal Utility District No. 21

President

Title

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

