

Executive Summary – Enforcement Matter – Case No. 39143
Jackson County Water Control and Improvement District No. 2
RN102185071
Docket No. 2010-0259-MWD-E

Order Type:

Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

aproximately 1,500 feet east of Farm-to-Market Road 234 and approximately 1,600 feet north of Farm-to-Market Road 616, Vanderbilt, Jackson County

Type of Operation:

Domestic wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: None

Texas Register Publication Date: September 2, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$11,280

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$325

Total Due to General Revenue: \$10,955

Payment Plan: 35 payments of \$313 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average

Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Jackson County Water Control and Improvement District No. 2
RN102185071
Docket No. 2010-0259-MWD-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: August 11, 2009
Date(s) of NOV(s): See Compliance History – 32 NOVs
Date(s) of NOE(s): January 31, 2010

Violation Information

1. Failed to submit the annual sludge report for the monitoring period ending July 31, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010196001, Sludge Provisions].
2. Failed to comply with permitted effluent limits [TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0010196001, Effluent Limits and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Within 30 days, submit a signed and certified annual sludge report for the monitoring period ending July 31, 2008.
2. Within 30 days, update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports.
3. Within 45 days, submit written certification of compliance to demonstrate compliance with Technical Requirements Nos. 1 and 2.
4. Within 90 days, submit written certification of compliance with effluent limits, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: June 3, 2011
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: August 8, 2011

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Docket No. 2010-0259-MWD-E

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Contact Information

TCEQ Attorneys: Sharesa Y. Alexander, Litigation Division, (512) 239-3503
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Jeremy Escobar, Air Enforcement Section, (361) 825-3422

TCEQ Regional Contact: Kelly Ruble, Corpus Christi Regional Office, (361) 825-3113

Respondent: Clifford Born, President, Jackson County WCID No. 2, P. O. Box 574, Vanderbilt,
Texas 77991

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Feb-2010			
	PCW	1-Jun-2011	Screening	10-Feb-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Jackson County Water Control and Improvement District No. 2				
Reg. Ent. Ref. No.	RN102185071				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39143	No. of Violations	2		
Docket No.	2010-0259-MWD-E	Order Type	1660		
Media Program(s)	Water Quality	Government/Non-Profit	Yes		
Multi-Media		Enf. Coordinator	Jeremy Escobar		
		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	\$4,000
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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	182.0% Enhancement	Subtotals 2, 3, & 7	\$7,280
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Notes: The penalty is enhanced due to 30 self-reported effluent violations, two NOV's with same or similar violations to the ones cited in this action, one NOV with dissimilar violations, and one 1660 order with a denial of liability language.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,314
 Approx. Cost of Compliance: \$10,200
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,280
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$11,280
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,280
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$11,280
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Screening Date 10-Feb-2010

Docket No. 2010-0259-MWD-E

PCW

Respondent Jackson County Water Control and Improvement District

Policy Revision 2 (September 2002)

Case ID No. 39143

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185071

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

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)	32	160%
	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) 182%

>> 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 30 self-reported effluent violations, two NOVs with same or similar violations to the ones cited in this action, one NOV with dissimilar violations, and one 1660 order with a denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 182%

Screening Date 10-Feb-2010 **Docket No.** 2010-0259-MWD-E **PCW**
Respondent Jackson County Water Control and Improvement District No. 2 *Policy Revision 2 (September 2002)*
Case ID No. 39143 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102185071
Media [Statute] Water Quality
Enf. Coordinator Jeremy Escobar

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. WQ0010196001, Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permitted effluent limits, as documented in a record review conducted on August 11, 2009, and depicted in the table attached.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes
 A simplified model was used to evaluate biochemical oxygen demand ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") and flow values were also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000
 \$1,000

Violation Events

Number of Violation Events: 3 212 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.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

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

Estimated EB Amount \$1,293 **Violation Final Penalty Total** \$8,460
This violation Final Assessed Penalty (adjusted for limits) \$8,460

Effluent Violation Table			
Permitted Effluent Limits (Dates)	BOD Daily Average Concentration 30mg/L	TSS Daily Average Concentration 90mg/L	Flow .045 MGD
May 2008	C	169.5	C
June 2008	C	120.25	C
December 2008	C	112.8	.7831
January 2009	36.5	C	C
February 2009	40.5	C	C
March 2009	42.2	C	C
April 2009	52	101.75	C

BOD = Biochemical Oxygen Demand	C = Compliant	MGD = Total Suspended Solids	Mg/L = Milligrams per Liter
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Economic Benefit Worksheet

Respondent Jackson County Water Control and Improvement District No. 2
Case ID No. 39143
Reg. Ent. Reference No. RN102185071
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-May-2008	31-Dec-2010	2.59	\$1,293	n/a	\$1,293

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,293

Screening Date 10-Feb-2010 **Docket No.** 2010-0259-MWD-E **PCW**
Respondent Jackson County Water Control and Improvement District No. 2 *Policy Revision 2 (September 2002)*
Case ID No. 39143 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102185071
Media [Statute] Water Quality
Enf. Coordinator Jeremy Escobar

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. WQ0010196001, Sludge Provisions
Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, as documented in a record review conducted on August 11, 2009. Specifically, the annual sludge report was due September 1, 2008, but was not submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 560 Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

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

Estimated EB Amount \$21 **Violation Final Penalty Total** \$2,820
This violation Final Assessed Penalty (adjusted for limits) \$2,820

Economic Benefit Worksheet

Respondent Jackson County Water Control and Improvement District No. 2
Case ID No. 39143
Reg. Ent. Reference No. RN102185071
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	1-Sep-2008	1-Oct-2010	2.08	\$10	n/a	\$10
Training/Sampling	\$100	1-Sep-2008	1-Oct-2010	2.08	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reports are submitted in accordance with permit requirements. Date required is the date the sludge report was due. The final date is the estimated 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

\$200

TOTAL

\$21

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Compliance History Report

Customer/Respondent/Owner-Operator: CN600738330 Jackson County Water Control and Improvement District No. 2 Classification: AVERAGE Rating: 2.36

Regulated Entity: RN102185071 JACKSON COUNTY WCID 002 Classification: AVERAGE Site Rating: 2.36

ID Number(s): WASTEWATER PERMIT WQ0010196001
 WASTEWATER PERMIT TPDES0027669
 WASTEWATER PERMIT TX0027669
 WASTEWATER LICENSING LICENSE WQ0010196001

Location: APPROX 1500 FEET EAST OF FARM-TO-MARKET ROAD 234 AND APPROXIMATELY 1600 FEET NORTH OF FARM-TO-MARKET ROAD 616 IN VANDERBILT, JACKSON COUNTY

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 18, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 10, 2005 to February 10, 2010

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

Name: Jeremy Escobar Phone: 825-3422

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.
 Effective Date: 02/05/2006 ADMINORDER 2005-1256-MWD-E
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: Effluent Limits PERMIT
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
- B. Any criminal convictions of the state of Texas and the federal government.
 N/A
- C. Chronic excessive emissions events.
 N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/11/2005	(350398)	25	10/13/2006	(546870)	52	11/24/2008	(728542)
2	03/21/2005	(421381)	27	12/19/2006	(546872)	54	01/13/2009	(728544)
3	03/21/2005	(421382)	28	01/18/2007	(579216)	55	02/17/2009	(751630)
4	04/15/2005	(421383)	29	02/15/2007	(579210)	56	03/12/2009	(751631)
5	05/24/2005	(421384)	30	03/14/2007	(579211)	57	04/16/2009	(769395)
6	06/03/2005	(378473)	31	04/12/2007	(579212)	58	05/14/2009	(769397)
7	06/23/2005	(421385)	32	05/22/2007	(769396)	59	01/12/2010	(785477)
8	07/26/2005	(442368)	33	06/11/2007	(579213)	60	02/05/2010	(765481)
9	08/25/2005	(442369)	34	07/12/2007	(602733)			
10	09/23/2005	(442370)	35	08/13/2007	(579215)			
11	10/17/2005	(471383)	36	09/15/2007	(602734)			
12	11/28/2005	(471384)	37	10/09/2007	(602735)			
13	12/27/2005	(471385)	40	01/11/2008	(621034)			
14	01/13/2006	(471386)	41	02/17/2008	(673169)			
15	02/14/2006	(471381)	42	02/27/2008	(636573)			
16	03/13/2006	(456591)	43	03/19/2008	(673170)			
17	03/16/2006	(471382)	44	04/25/2008	(691312)			
18	04/24/2006	(500085)	45	05/22/2008	(691313)			
19	05/23/2006	(500086)	46	06/23/2008	(712214)			
20	06/20/2006	(500087)	47	07/22/2008	(712215)			
21	07/18/2006	(522195)	48	07/25/2008	(656951)			
22	07/18/2006	(579214)	49	08/25/2008	(712216)			
23	08/11/2006	(522194)	50	09/17/2008	(712217)			
24	09/22/2006	(513424)	51	10/24/2008	(728541)			

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

1	Date:	02/11/2005	(350398)	CN600738330		
	Self Report?		NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES PERMIT NO. 10196-001 PERMIT				
	Description:	Failure to comply with the effluent limitations as specified in the permit.				
2	Date:	02/28/2005	(421382)	CN600738330		
	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				
3	Date:	03/31/2005	(421383)	CN600738330		
	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				
4	Date:	04/30/2005	(421384)	CN600738330		
	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				
5	Date:	05/31/2005	(421385)	CN600738330		
	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				
6	Date:	06/30/2005	(442368)	CN600738330		
	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				
7	Date:	07/31/2005	(442369)	CN600738330		
	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				
8	Date:	08/31/2005	(442370)	CN600738330		
	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				
9	Date:	09/30/2005	(471383)	CN600738330		
	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				
10	Date:	10/31/2005	(471384)	CN600738330		
	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				
11	Date:	11/30/2005	(471385)	CN600738330		
	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				
12	Date:	01/31/2006	(471381)	CN600738330		
	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				
13	Date:	02/28/2006	(471382)	CN600738330		
	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				
14	Date:	03/31/2006	(500085)	CN600738330		
	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		
15	Date:	04/30/2006 (500086)	CN600738330	Classification: Moderate
	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		
16	Date:	05/31/2006 (500087)	CN600738330	Classification: Moderate
	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		
17	Date:	06/30/2006 (579214)	CN600738330	Classification: Moderate
	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		
18	Date:	08/22/2006 (486989)	CN600738330	Classification: Moderate
	Self Report?	NO		
	Citation:	30 TAC Chapter 305, SubChapter F 305.126(b)(2) Permit Conditions, 4.a.ii. PERMIT		
	Description:	Failure to notify the Permitting Division of changes made in the treatment process.		
19	Date:	08/31/2006 (522195)	CN600738330	Classification: Moderate
	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		
20	Date:	03/31/2007 (579212)	CN600738330	Classification: Moderate
	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		
21	Date:	05/31/2007 (579213)	CN600738330	Classification: Moderate
	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		
22	Date:	07/31/2007 (579215)	CN600738330	Classification: Moderate
	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		
23	Date:	01/31/2008 (673169)	CN600738330	Classification: Moderate
	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		
24	Date:	02/29/2008 (673170)	CN600738330	Classification: Moderate
	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		
25	Date:	03/31/2008 (691312)	CN600738330	Classification: Moderate
	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		
26	Date:	05/31/2008 (712214)	CN600738330	Classification: Moderate
	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		
27	Date:	06/30/2008 (712215)	CN600738330	Classification: Moderate
	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		

28	Date:	07/25/2008	(656951)	CN600738330	Classification:	Moderate
	Self Report?	NO				
	Citation:		30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. WQWQ0010196-001 PERMIT			
	Description:		Failure to prevent discharge of floating solids or visible foam.			
29	Date:	12/31/2008	(728544)	CN600738330	Classification:	Moderate
	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			
30	Date:	01/31/2009	(751630)	CN600738330	Classification:	Moderate
	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			
31	Date:	02/28/2009	(751631)	CN600738330	Classification:	Moderate
	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			
32	Date:	03/31/2009	(769395)	CN600738330	Classification:	Moderate
	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			
33	Date:	04/30/2009	(769397)	CN600738330	Classification:	Moderate
	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			

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
JACKSON COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 2;
RN102185071**

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§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-0259-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Jackson County Water Control and Improvement District No. 2 ("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 appear before the Commission and together stipulate that:

1. Respondent owns and operates a domestic wastewater treatment facility located approximately 1,500 feet east of Farm-to-Market Road 234 and approximately 1,600 feet north of Farm-to-Market Road 616 in Vanderbilt, Jackson County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of eleven thousand two hundred eighty dollars (\$11,280.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred twenty-five dollars (\$325.00) of the administrative penalty. The remaining amount of ten thousand nine hundred fifty-five dollars (\$10,955.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred thirteen dollars (\$313.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid 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, Respondent's failure 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.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During a record review conducted on August 11, 2009, a TCEQ Corpus Christi Regional Office investigator documented that Respondent:
 - a. Failed to submit the annual sludge report for the monitoring period ending July 31, 2008. Specifically, the annual sludge report was due September 1, 2008, but was not submitted, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010196001, Sludge Provisions; and
 - b. Failed to comply with permitted effluent limits, as depicted in the table below, in violation of TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0010196001, Effluent Limitations and Monitoring Requirements No. 1:

Effluent Violation Table			
Permitted Effluent Limits (Dates)	BOD Daily Average Concentration 30mg/L	TSS Daily Average Concentration 90mg/L	Flow .045 MGD
May 2008	C	169.5	C
June 2008	C	120.25	C
December 2008	C	112.8	.7831
January 2009	36.5	C	C
February 2009	40.5	C	C
March 2009	42.2	C	C
April 2009	52	101.75	C

BOD = Biochemical Oxygen Demand	C = Compliant	MGD = Total Suspended Solids	Mg/L = Milligrams per Liter
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- c. Failed to submit the annual sludge report for the monitoring period ending July 31, 2008. Specifically, the annual sludge report was due September 1, 2008, but was not submitted, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010196001, Sludge Provisions.
2. Respondent received notice of the violations on or about February 5, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations, which 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: Jackson County Water Control and Improvement District No. 2, Docket No. 2010-0259-MWD-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
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 submit a signed and certified annual sludge report for the monitoring period ending July 31, 2008, in accordance with TPDES Permit No. WQ0010196001, Sludge Provisions;
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports in accordance with TPDES Permit No. WQ0010196001, Sludge Provisions;
 - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification of compliance with Ordering Provision Nos. 2.a. and 2.b., as described in Ordering Provision No. 2.e. below;
 - d. Within 90 days after the effective day of this Agreed Order, Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010196001 as described in Ordering Provision No. 2.e., including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and
 - e. The certifications requires by these Ordering Provisions shall include supporting documentation to demonstrate compliance and 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."

Respondent shall submit the written certifications and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by 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.
5. 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 shall have 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.
6. 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.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the

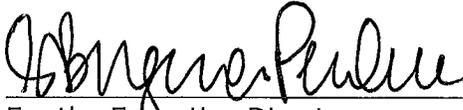
terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. 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. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/13/2011

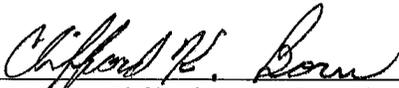
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Jackson County Water Control and Improvement District No. 2, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature -Clifford Born, President

Jackson County Water Control and Improvement District No. 2

8-8-11

Date