

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1175-MWD-E **TCEQ ID:** RN102916525 **CASE NO.:** 40063
RESPONDENT NAME: Port O'Connor Municipal Utility District

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Port O'Connor Municipal Utility District, north of and adjacent to State Highway 185 and approximately 1,000 feet northwest of the Port O'Connor Airport, Calhoun 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 13, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Martha Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Teddy Hawes, President – Board of Directors, Port O'Connor Municipal Utility District, P.O. Box 375, Port O'Connor, Texas 77982 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: June 4, 2010</p> <p>Date of NOV/NOE Relating to this Case: July 7, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with the permitted effluent limitations for ammonia nitrogen, pH, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013693001 Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p>	<p>Total Assessed: \$5,280</p> <p>Total Deferred: \$1,056 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$4,224</p> <p>Total Paid to General Revenue: \$0</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By March 31, 2010, replaced the sludge with a seed load from another facility, installed two auto-switchover rotometers to replace the old system, and installed a timer system on the blowers for the aeration chambers; and</p> <p>b. By April 30, 2010, returned to compliance with the permitted effluent limitations of TPDES Permit No. WQ0013693001.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): WQ0013693001; TX0112151

Attachment A
Docket Number: 2010-1175-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Port O'Connor Municipal Utility District
Penalty Amount:	Four Thousand Two Hundred Twenty-Four Dollars (\$4,224)
SEP Offset Amount:	Four Thousand Two Hundred Twenty-Four Dollars (\$4,224)
Type of SEP:	Pre-approved SEP
Third-Party Recipient:	National Audubon Society – <i>Sundown Island Sanctuary Anti-erosion, Re-vegetation and Pest Control Project</i>
Location of SEP:	Calhoun County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP offset amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **National Audubon Society** for the *Sundown Sanctuary Island Anti-erosion, Re-vegetation and Pest Control Project*. The Sundown Island and four other small coastal islands located off Port O'Connor are major sites for nesting colonial waterbirds. These islands are increasingly subject to erosion and consequent land loss due to an increasing number of vessels, storm winds and surges, etc. Texas coastal sanctuary islands in this area host one of the largest roseate spoonbill, reddish egret and Brown pelican colonies in the U.S. Colonial. The SEP offset amount will be used to restore the size of the islands utilizing dredge spoil, conduct revegetation using native plants, and treat vegetation to control pest populations.

The SEP will be done in accordance with all federal, state and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The Respondent shall not profit from this SEP in any manner. The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This project will provide an environmental benefit by stabilizing the island, reducing erosion, and ensuring the maintenance of the natural ecosystem. Waterbirds can only nest successfully on islands of adequate size that have appropriate vegetation and the absence of pests to ensure stable populations. The loss of native vegetation results in an increased potential for erosion. Revegetation will also help absorb pollutants and particulate matter and improve water quality. By restoring the natural vegetated areas, turbidity is reduced, and source water for recreation and human consumption is protected from further degradation

C. Minimum Expenditure

The Respondent shall contribute at least the SEP offset amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to the addressee listed below:

National Audubon Society
Attention: Executive Director
Audubon Texas
2904 Swiss Avenue
Dallas, TX 75204

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to the addressee listed below:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP offset amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

DATES	Assigned	12-Jul-2010	Screening	21-Jul-2010	EPA Due	
	PCW	20-Jul-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Port O'Connor Municipal Utility District
Reg. Ent. Ref. No.	RN102916525
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	40063	Order Type	1660
Docket No.	2010-1175-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Marty Hott
Multi-Media		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	\$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	62.0% Enhancement	Subtotals 2, 3, & 7	\$2,480
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Notes
Enhancement for 10 months of self-reported effluent violations, two NOV's with same/similar violations, and one NOV with dissimilar violations.

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	\$1,000
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$458
Approx. Cost of Compliance: \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,480
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-3.6%	Adjustment	-\$200
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes
Recommended reduction to prevent double enhancement for self-reported violations.

Final Penalty Amount	\$5,280
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,280
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,056
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,224
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Screening Date 21-Jul-2010

Docket No. 2010-1175-MWD-E

PCW

Respondent Port O'Connor Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 40063

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102916525

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	12	60%
	Other written NOVs	1	2%
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) 62%

>> 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 10 months of self-reported effluent violations, two NOVs with same/similar violations, and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date: 21-Jul-2010

Docket No.: 2010-1175-MWD-E

PCW

Respondent: Port O'Connor Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No.: 40063

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102916525

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. WQ0013693001 Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description

Failed to comply with the permitted effluent limitations, as documented during a record review conducted on June 4, 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 ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and pH 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: 4

124 Number of violation days

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

Violation Base Penalty: \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,000

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

Notes: The Respondent achieved compliance by April 30, 2010.

Violation Subtotal: \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$458

Violation Final Penalty Total: \$5,280

This violation Final Assessed Penalty (adjusted for limits): \$5,280

Economic Benefit Worksheet

Respondent Port O'Connor Municipal Utility District
Case ID No. 40063
Req. Ent. Reference No. RN102916525
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. continues 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-2009	30-Apr-2010	0.92	\$458	n/a	\$458

Notes for DELAYED costs

Estimated cost to evaluate the Facility to determine the cause of the effluent violations and complete corrective actions, including: replacing the sludge with a seed load from another facility, installing two auto-switchover rotometers to replace the old system, and installing a timer system on the blowers for the aeration chambers. 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)

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

\$458

Port O'Connor Municipal Utility District
 TPDES Permit No. WQ0013693001
 Docket No. 2010-1175-MWD-E
 Case No. 40063

EFFLUENT VIOLATION TABLE				
Months	Ammonia Nitrogen Daily Ave. Conc.	Ammonia Nitrogen Daily Max. Conc.	pH Min.	TSS Daily Ave. Conc.
	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 6.0 s.u.	Limit = 15 mg/L
5/31/2009	c	11.6	c	c
10/31/2009	4.32	16.5	5.87	c
1/31/2010	c	c	c	17.8
3/31/2010	7.92	21.1	c	c

min. = minimum max. = maximum conc. = concentration TSS = total suspended solids
 ave. = average c = compliant mg/L = milligrams per Liter s.u. = standard units

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600646061	Port O'Connor Municipal Utility District	Classification: AVERAGE	Rating: 0.61
Regulated Entity:	RN102916525	PORT O CONNOR MUD	Classification: AVERAGE	Site Rating: 0.61
ID Number(s):	WASTEWATER	EPA ID		TX0112151
	WASTEWATER	PERMIT		WQ0013693001
	WASTEWATER	EPA ID		TX0112151
	UTILITIES	REGISTRATION		P1247
Location:	NORTH OF AND ADJACENT TO STATE HIGHWAY 185 AND APPROXIMATELY 1,000 FEET NORTHWEST OF THE PORT O'CONNOR AIRPORT, CALHOUN COUNTY, TEXAS			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	July 19, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 19, 2005 to July 19, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Marty Hott	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 07/19/2005 (446941)
- 2 08/19/2005 (446942)
- 3 09/12/2005 (446943)
- 4 10/26/2005 (490921)
- 5 11/16/2005 (490922)
- 6 12/20/2005 (490923)
- 7 01/19/2006 (490924)
- 8 02/14/2006 (490920)
- 9 03/17/2006 (629569)
- 10 04/20/2006 (505537)
- 11 05/15/2006 (505538)
- 12 06/02/2006 (505539)
- 13 07/19/2006 (527813)
- 14 09/05/2006 (527814)
- 15 09/14/2006 (527815)
- 16 09/28/2006 (531064)
- 17 10/16/2006 (629577)
- 18 11/14/2006 (629579)
- 19 11/16/2006 (513317)

20	12/15/2006	(629581)
21	01/12/2007	(629583)
22	02/12/2007	(629568)
23	03/19/2007	(629570)
24	04/16/2007	(629571)
25	05/18/2007	(629572)
26	06/15/2007	(629573)
27	08/16/2007	(629574)
28	08/30/2007	(629575)
29	09/27/2007	(629576)
30	10/25/2007	(629578)
31	12/03/2007	(629580)
32	12/21/2007	(629582)
33	01/23/2008	(676761)
34	02/19/2008	(676760)
35	04/01/2008	(695322)
36	06/18/2008	(695323)
37	07/17/2008	(695324)
38	08/29/2008	(716848)
39	09/24/2008	(716849)
40	10/22/2008	(716850)
41	11/21/2008	(732276)
42	12/23/2008	(732277)
43	01/15/2009	(732278)
44	02/17/2009	(755593)
45	02/19/2009	(755594)
46	03/02/2009	(755595)
47	03/12/2009	(755592)
48	03/24/2009	(726700)
49	04/21/2009	(755594)
50	05/18/2009	(772638)
51	06/12/2009	(772639)
52	07/02/2009	(759918)
53	08/21/2009	(817997)
54	09/17/2009	(817999)
55	10/08/2009	(817998)
56	10/20/2009	(818000)
57	11/20/2009	(818001)
58	12/14/2009	(818002)
59	01/15/2010	(818003)
60	02/17/2010	(817996)
61	03/23/2010	(835545)
62	04/23/2010	(835546)
63	05/19/2010	(835547)
64	07/09/2010	(825972)

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

Date:	07/31/2005	(446942)	CN600646061
Self	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/28/2006	(531064)	CN600646061
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

Date 11/16/2006 (513317) CN600646061
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. WQ0010158-001 PERMIT
 Description: Failure to comply with self-monitored effluent limitations for ammonia nitrogen (NH3-N).

Date 07/31/2008 (716848) CN600646061
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2008 (732276) CN600646061
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 11/30/2008 (732277) CN600646061
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 01/31/2009 (755591) CN600646061
 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 03/24/2009 (726700) CN600646061
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. WQ0013693-001 PERMIT
 Description: Failure to maintain compliance with the permitted effluent limit for total chlorine residual minimum.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. WQ0013693-000 PERMIT
 Description: Failure to maintain compliance with the self-monitored permitted effluent limits for total chlorine residual, total suspended solids and ammonia as nitrogen.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. WQ0013693-001 PERMIT
 Description: Failure to collect a flow proportional composite sample.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. WQ0013693-001 PERMIT
 Description: Failure to submit a noncompliance notification for any effluent violation which deviates from the permitted effluent limitations by more than 40 %.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.6
 30 TAC Chapter 319, SubChapter A 319.9(c)
 TPDES Permit No. WQ0013693-001 PERMIT
 Description: Failure to conduct and maintain appropriate records for quality assurance/quality control procedures for pH analysis.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(a)(8)
 30 TAC Chapter 317 317.7(i)
 Description: Failure to annually test the backflow prevention device by a qualified technician to prevent the potential contamination of the public water supply system.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TPDES Permit No. WQ0013693-001 PERMIT
 Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.

Date	04/30/2009	(772638)	CN600646061	
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	05/31/2009	(772639)	CN600646061	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2009	(818001)	CN600646061	
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	(817996)	CN600646061	
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	03/31/2010	(835546)	CN600646061	
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
PORT O'CONNOR MUNICIPAL
UTILITY DISTRICT
RN102916525**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1175-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Port O'Connor Municipal Utility District ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located north of and adjacent to State Highway 185 and approximately 1,000 feet northwest of the Port O'Connor Airport in Calhoun County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 12, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Two Hundred Eighty Dollars (\$5,280) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Fifty-Six Dollars (\$1,056) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Four Thousand Two Hundred Twenty-Four Dollars (\$4,224) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By March 31, 2010, replaced the sludge with a seed load from another facility, installed two auto-switchover rotometers to replace the old system, and installed a timer system on the blowers for the aeration chambers; and
 - b. By April 30, 2010, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013693001.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0013693001 Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on June 4, 2010 and shown in the following table:

EFFLUENT VIOLATION TABLE				
Months	Ammonia Nitrogen Daily Ave. Conc.	Ammonia Nitrogen Daily Max. Conc.	pH Min.	TSS Daily Ave. Conc.
	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 6.0 s.u.	Limit = 15 mg/L
5/31/2009	c	11.6	c	c
10/31/2009	4.32	16.5	5.87	c
1/31/2010	c	c	c	17.8
3/31/2010	7.92	21.1	c	c

min. = minimum max. = maximum conc. = concentration TSS = total suspended solids
 ave. = average c = compliant mg/L = milligrams per Liter s.u. = standard units

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Port O'Connor Municipal Utility District, Docket No. 2010-1175-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Two Hundred Twenty-Four Dollars (\$4,224) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 11/10/2010

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

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

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

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



Signature

Date 10-14-10

Teddy Hawes

Name (Printed or typed)
Authorized Representative of
Port O'Connor Municipal Utility District

Title President - Board of Directors

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



Attachment A
Docket Number: 2010-1175-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Port O'Connor Municipal Utility District

Penalty Amount: Four Thousand Two Hundred Twenty-Four Dollars
(\$4,224)

SEP Offset Amount: Four Thousand Two Hundred Twenty-Four Dollars
(\$4,224)

Type of SEP: Pre-approved SEP

Third-Party Recipient: National Audubon Society – *Sundown Island
Sanctuary Anti-erosion, Re-vegetation and Pest
Control Project*

Location of SEP: Calhoun County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP offset amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **National Audubon Society** for the *Sundown Sanctuary Island Anti-erosion, Re-vegetation and Pest Control Project*. The Sundown Island and four other small coastal islands located off Port O'Connor are major sites for nesting colonial waterbirds. These islands are increasingly subject to erosion and consequent land loss due to an increasing number of vessels, storm winds and surges, etc. Texas coastal sanctuary islands in this area host one of the largest roseate spoonbill, reddish egret and Brown pelican colonies in the U.S. Colonial. The SEP offset amount will be used to restore the size of the islands utilizing dredge spoil, conduct revegetation using native plants, and treat vegetation to control pest populations.

The SEP will be done in accordance with all federal, state and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The Respondent shall not profit from this SEP in any manner. The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This project will provide an environmental benefit by stabilizing the island, reducing erosion, and ensuring the maintenance of the natural ecosystem. Waterbirds can only nest successfully on islands of adequate size that have appropriate vegetation and the absence of pests to ensure stable populations. The loss of native vegetation results in an increased potential for erosion. Revegetation will also help absorb pollutants and particulate matter and improve water quality. By restoring the natural vegetated areas, turbidity is reduced, and source water for recreation and human consumption is protected from further degradation.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP offset amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to the addressee listed below:

National Audubon Society
Attention: Executive Director
Audubon Texas
2904 Swiss Avenue
Dallas, TX 75204

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to the addressee listed below:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP offset amount.

Port O'Connor Municipal Utility District
Agreed Order – Attachment A

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

