EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1569-MWD-E **TCEQ ID:** RN102340767 **CASE NO.:** 40435
RESPONDENT NAME: Richey Road Municipal Utility District

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Richey Road Municipal Utility District, located at 1820 Candle Park Ridge, approximately 3,300 feet northeast of the intersection of Hardy Toll Road and W.W. Thorne Drive, and three miles south-southeast of Westfield, Harris County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ___ Yes _X_ No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 17, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Don White, General Manager, Richey Road Municipal Utility District, 1001 McKinney Street, Suite 1000, Houston, Texas 77002
Mr. Gary Emr, President, Board of Directors, Richey Road Municipal Utility District, 1001 McKinney Street, Suite 1000, Houston, Texas 77002
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** August 16, 2010 **Date of NOV/NOE Relating to this Case:** August 26, 2010 (NOE) **Background Facts:** This was a records review. **WATER** 1) Failed to comply with the permitted effluent limitations for ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012378002, Effluent Limitations and Monitoring Requirements No. 1]. 2) Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending June 30, 2009 [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0012378002, Monitoring and Reporting Requirements No. 1].	**Total Assessed:** $1,397 **Total Deferred:** $279 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,118 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** __ Yes __X__ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that by October 4, 2010, the Respondent submitted the DMR for the monitoring period ending June 30, 2009. **Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, update Facility's operational guidance and conduct employee training to ensure that all monitoring records are properly maintained and all reporting requirements are met; b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.; and c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012378002, 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.

Additional ID No(s).: WQ0012378002; TX0092967

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
	Assigned	30-Aug-2010				
	PCW	1-Oct-2010	**Screening**	17-Sep-2010	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	Richey Road Municipal Utility District		
Reg. Ent. Ref. No.	RN102340767		
Facility/Site Region	12-Houston	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	40435	**No. of Violations**	2
Docket No.	2010-1569-MWD-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Jennifer Graves
		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*: $1,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 27.0% Enhancement — *Subtotals 2, 3, & 7*: $297

Notes: Enhancement for five months of self-reported effluent violations, and one NOV with dissimilar 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*: $0

Economic Benefit — 0.0% Enhancement* — *Subtotal 6*: $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$299
Approx. Cost of Compliance	$4,300

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $1,397

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0.0% — *Adjustment*: $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: $1,397

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $1,397

DEFERRAL — 20.0% Reduction — *Adjustment*: -$279

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: $1,118

Screening Date 17-Sep-2010 **Docket No.** 2010-1569-MWD-E **PCW**

Respondent Richey Road Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 40435

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102340767

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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 (*number of NOVs meeting criteria*)	5	25%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*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%

		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) 27%

>> 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 five months of self-reported effluent violations, and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 17-Sep-2010 **Docket No.** 2010-1569-MWD-E **PCW**

Respondent Richey Road Municipal Utility District *Policy Revision 2 (September 2002)*

Case ID No. 40435 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102340767

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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. WQ0012378002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on August 16, 2010, and shown in the attached violation 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 amount of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $280

Statutory Limit Test

Violation Final Penalty Total $1,270

This violation Final Assessed Penalty (adjusted for limits) $1,270

Economic Benefit Worksheet

Respondent Richey Road Municipal Utility District
Case ID No. 40435
Reg. Ent. Reference No. RN102340767
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							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$2,000	30-Apr-2010	30-Jun-2011	1.17	$8	$156	$163
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)	$2,000	30-Apr-2010	30-Jun-2011	1.17	$117	n/a	$117

Notes for DELAYED costs: Estimated cost to determine the cause of noncompliance and make necessary adjustments to address ammonia nitrogen exceedances. Date required is the initial month of noncompliance. Final date is the expected date of compliance.

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance $4,000

TOTAL $280

Screening Date 17-Sep-2010 **Docket No.** 2010-1569-MWD-E **PCW**

Respondent Richey Road Municipal Utility District *Policy Revision 2 (September 2002)*

Case ID No. 40435 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102340767

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0012378002, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending June 30, 2009, as documented during a record review conducted on August 16, 2010.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: More than 70% of the permit requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 1 — 30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $100

Economic Benefit (EB) for this violation

Estimated EB Amount $37

Statutory Limit Test

Violation Final Penalty Total $127

This violation Final Assessed Penalty (adjusted for limits) $127

Economic Benefit Worksheet

Respondent Richey Road Municipal Utility District
Case ID No. 40435
Reg. Ent. Reference No. RN102340767
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							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$250	20-Jul-2009	30-Jun-2011	1.95	$2	$32	$34
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)	$50	20-Jul-2009	4-Oct-2010	1.21	$3	n/a	$3
Notes for DELAYED costs	The estimated cost to update operational guidance and conduct employee training to ensure that all monitoring records are properly maintained and all reporting requirements are met. Date required is the date the DMR was due. Final date is the expected date of compliance. The estimated cost to prepare and submit the DMR. Date required is date the DMR was due. Final date is the date the DMR was submitted.						
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 $300

TOTAL $37

EFFLUENT VIOLATION TABLE			
Richey Road Municipal Utility District			
Docket No. 2010-1569-MWD-E			
TPDES Permit No. WQ0012378002			
Month	NH_3-N Daily Avg. Conc. Limit = 3 mg/L	NH_3-N Daily Avg. Loading Limit = 11 lbs/day	NH_3-N Max. Single Grab Limit = 15 mg/L
April 2010	4.89	c	17.1
May 2010	7.26	12.49	57.1

NH_3-N = ammonia nitrogen
Avg. = average
Conc. = concentration
Max. = maximum
mg/L = milligrams per Liter
lbs/day = pounds per day
c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601234248	Richey Road Municipal Utility District	Classification: AVERAGE	Rating: 1.11
Regulated Entity:	RN102340767	RICHEY ROAD MUD	Classification: AVERAGE	Site Rating: 0.33
ID Number(s):	WASTEWATER		PERMIT	WQ0012378002
	WASTEWATER		EPA ID	TX0092967
	WASTEWATER LICENSING		LICENSE	WQ0012378002

Location: 1820 CANDLE PARK RIDGE, APPROX 3,300 FT NE OF THE INTX OF HARDY TOLL RD AND W. W. THORNE DR AND 3 M SSE OF THE CITY OF WESTFIELD IN HARRIS COUNTY, TX.

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 16, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 16, 2005 to September 16, 2010

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

Name: Jennifer Graves Phone: (956) 430-6023

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: 9/1/2010 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	09/23/2005	(445916)
2	10/09/2005	(477908)
3	11/21/2005	(477909)
4	12/13/2005	(477910)
5	02/08/2006	(477911)
6	02/24/2006	(477906)
7	03/20/2006	(477907)
8	04/17/2006	(504337)
9	05/30/2006	(504338)
10	06/20/2006	(504339)
11	07/27/2006	(526671)
12	08/28/2006	(526672)
13	09/20/2006	(526673)
14	10/16/2006	(626172)
15	11/20/2006	(626174)
16	12/27/2006	(626176)

17 01/29/2007 (626178)
18 02/20/2007 (626164)
19 03/21/2007 (626165)
20 04/23/2007 (626166)
21 05/01/2007 (554815)
22 05/25/2007 (626167)
23 06/18/2007 (626168)
24 06/25/2007 (563802)
25 07/20/2007 (626169)
26 09/05/2007 (626170)
27 09/27/2007 (626171)
28 10/30/2007 (626173)
29 12/13/2007 (626175)
30 12/18/2007 (626177)
31 01/24/2008 (694231)
32 03/07/2008 (675851)
33 03/17/2008 (675852)
34 04/22/2008 (675853)
35 05/08/2008 (694228)
36 06/25/2008 (694229)
37 07/11/2008 (694230)
38 08/15/2008 (715599)
39 12/23/2008 (731315)
40 12/23/2008 (731316)
41 12/23/2008 (731317)
42 12/23/2008 (731318)
43 01/19/2009 (731319)
44 02/25/2009 (754626)
45 03/10/2009 (754627)
46 04/17/2009 (754628)
47 05/29/2009 (771870)
48 06/29/2009 (815635)
49 10/28/2009 (815636)
50 10/28/2009 (815637)
51 10/28/2009 (815638)
52 11/23/2009 (815639)
53 01/11/2010 (815640)
54 01/18/2010 (815641)
55 02/12/2010 (815634)
56 04/16/2010 (834691)
57 04/16/2010 (834692)
58 05/17/2010 (834693)
59 06/21/2010 (847427)
60 07/20/2010 (861854)
61 08/27/2010 (849246)

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

Date: 05/01/2007 (554815) CN601234248

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3
Description: Failure to maintain the alarm on the lift station. An auto-dialer system is available but, is not operational.

Self Report? NO Classification: Moderate
Citation: Other Requirements, pg. 23, no. 5 PERMIT
Description: Failure to measure the entire influent flow as required by the current permit.

Self Report? NO Classification: Moderate
Citation: Other Requirements, pg. 23, no. 5 PERMIT
Description: Failure to collect and analyze a composite sample for the influent Biochemical Oxygen Demand (BOD) as required by the current permit.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to properly calculate the effluent loading rates.

Date: 09/30/2008 (731316)
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 (815635)
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: 04/30/2010 (834693) CN601234248
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: 05/31/2010 (847427)
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: 06/30/2010 (861854)
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 RICHEY ROAD MUNICIPAL UTILITY DISTRICT RN102340767	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1569-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 Richey Road 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 a wastewater treatment plant located at 1820 Candle Park Ridge, approximately 3,300 feet northeast of the intersection of Hardy Toll Road and W.W. Thorne Drive, and three miles south-southwest of Westfield in Harris 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 August 31, 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 One Thousand Three Hundred Ninety-Seven Dollars ($1,397) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand One Hundred Eighteen Dollars ($1,118) of the administrative penalty and Two Hundred Seventy-Nine Dollars ($279) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that by October 4, 2010, the Respondent submitted the discharge monitoring report ("DMR") for the monitoring period ending June 30, 2009.

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 of the Facility, the Respondent is alleged to have:

1. 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 Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012378002, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on August 16, 2010, and shown in the following table:

EFFLUENT VIOLATION TABLE			
Month	NH_3-N Daily Avg. Conc. Limit = 3 mg/L	NH_3-N Daily Avg. Loading Limit = 11 lbs/day	NH_3-N Max. Single Grab Limit = 15 mg/L
April 2010	4.89	c	17.1
May 2010	7.26	12.49	57.1

NH_3-N = ammonia nitrogen
Avg. = average
Conc. = concentration
Max. = maximum
mg/L = milligrams per Liter
lbs/day = pounds per day
c = compliant

2. Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending June 30, 2009, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0012378002, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on August 16, 2010.

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: Richey Road Municipal Utility District, Docket No. 2010-1569-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order, update Facility's operational guidance and conduct employee training to ensure that all monitoring records are properly maintained and all reporting requirements are met;

b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a, in accordance with Ordering Provision No. 2.c; and

c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012378002, 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. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

12/16/2010
Date

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

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

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

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

Signature

11-9-10
Date

Gary Emr
Name (Printed or typed)
Authorized Representative of
Richey Road Municipal Utility District

President, Board of Directors
Title

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