

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-1777-MWD-E **TCEQ ID:** RN102183035 **CASE NO.:** 40598  
**RESPONDENT NAME:** Orange County Water Control and Improvement District No. 1

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

<b>CASE TYPE:</b>		
<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

**SITE WHERE VIOLATION(S) OCCURRED:** Tiger Lake Plant, located 3,500 feet southwest of the intersection of Farm-to-Market Road 1132 and State Highway 105, with an associated force main near the Brookhollow Lift Station at the end of Monroe Street, Orange County

**TYPE OF OPERATION:** Municipal wastewater treatment facility

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** A complaint was received on August 30, 2010, alleging that there were dead fish in a tributary. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on March 7, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

**Respondent:** Ms. Darlene Jackson, District Manager, Orange County Water Control and Improvement District No. 1, 460 East Bolivar Street, Vidor, Texas 77662

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> August 30, 2010</p> <p><b>Date of Investigation Relating to this Case:</b> August 30, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 15, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failed to prevent the discharge of municipal wastewater into water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010875003, Permit Conditions No. 2.g.].</p>	<p><b>Total Assessed:</b> \$10,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$10,000</p> <p><b>Compliance History Classifications:</b>            Person/CN - Average            Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b></p> <p>Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that, by August 30, 2010, the Respondent repaired the force main, removed and disposed of the dead fish and wastewater solids, and disinfected the affected area with bleach.</p>

Additional ID No(s).: WQ0010875003



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	18-Oct-2010	<b>Screening</b>	25-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	1-Nov-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Orange County Water Control and Improvement District No. 1
<b>Reg. Ent. Ref. No.</b>	RN102183035
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	1
<b>Enf./Case ID No.</b>	40598	<b>Order Type</b>	Findings
<b>Docket No.</b>	2010-1777-MWD-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Evette Alvarado
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**  
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

**Notes** Enhancement for two NOVs with same/similar violations, 16 months of self-reported effluent violations, and two orders with a denial of liability.

**Culpability**   Enhancement **Subtotal 4**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

Screening Date 25-Oct-2010

Docket No. 2010-1777-MWD-E

PCW

Respondent Orange County Water Control and Improvement I

Policy Revision 2 (September 2002)

Case ID No. 40598

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102183035

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

### 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> )	18	90%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 130%

>> 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 two NOVs with same/similar violations, 16 months of self-reported effluent violations, and two orders with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 130%

Screening Date 25-Oct-2010

Docket No. 2010-1777-MWD-E

PCW

Respondent Orange County Water Control and Improvement District No. 1

Policy Revision 2 (September 2002)

Case ID No. 40598

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102183035

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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 Permit No. WQ0010875003, Permit Conditions No. 2.g

Violation Description

Failed to prevent the discharge of municipal wastewater into water in the state, as documented during an investigation conducted on August 30, 2010. On August 30, 2010, an unknown quantity of wastewater was discharged from a broken force main located near the Brookhollow Lift Station at the end of Monroe Street. The discharge flowed into an unnamed tributary of Ten Mile Creek, resulting in a fish kill of approximately 50 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants that exceed protective levels as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$5,000

One daily event is recommended from the date the discharge was documented (August 30, 2010) to the date compliance was achieved (August 30, 2010).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent returned to compliance by August 30, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$10,250

This violation Final Assessed Penalty (adjusted for limits) \$10,000

## Economic Benefit Worksheet

**Respondent** Orange County Water Control and Improvement District No. 1  
**Case ID No.** 40598  
**Reg. Ent. Reference No.** RN102183035  
**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
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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	\$9,600	30-Aug-2010	30-Aug-2010	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 repair force main, remove and dispose of wastewater solids and dead fish, and disinfect affected area with bleach. Date required is the date the discharge was documented. 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	\$9,600	<b>TOTAL</b>	\$0
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN601441850 Orange County Water Control and Improvement District No. 1 Classification: AVERAG Rating: 2.73

Regulated Entity: RN102183035 TIGER LAKE PLANT Classification: AVERAGE Site Rating: 2.10

ID Number(s): WASTEWATER PERMIT WQ0010875003  
WASTEWATER EPA ID TX0108073  
WASTEWATER LICENSING LICENSE WQ0010875003

Location: 3,500 feet SW of intx of FM 1132 and SH 105,  
with assoc. force main near Brookhollow Lift St. at the  
end of Monroe Street, Orange Co., Tx.

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: October 27, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 27, 2005 to October 27, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Evette Alvarado Phone: (512) 239 - 2573

## 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.

Effective Date: 02/08/2008 ADMINORDER 2007-1101-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.

Effective Date: 04/25/2010 ADMINORDER 2009-1793-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	02/07/2006	(440201)
2	05/30/2006	(479801)
3	02/27/2006	(490572)
4	03/21/2006	(490573)
5	11/18/2005	(490575)
6	12/19/2005	(490576)
7	01/23/2006	(490577)
8	04/19/2006	(505388)
9	05/22/2006	(505389)
10	06/21/2006	(505390)
11	09/22/2006	(527674)
12	07/24/2006	(527675)
13	08/22/2006	(527676)
14	03/15/2007	(543431)
15	11/10/2006	(551333)
16	11/27/2006	(551334)
17	12/22/2006	(551335)
18	07/06/2007	(565464)
19	02/20/2007	(588078)
20	03/20/2007	(588079)
21	04/23/2007	(588080)
22	06/21/2007	(588081)
23	12/11/2006	(588082)
24	01/22/2007	(588083)
25	07/20/2007	(605323)
26	08/29/2007	(605324)
27	09/11/2007	(605325)
28	10/19/2007	(629215)
29	12/10/2007	(629216)
30	12/20/2007	(629217)
31	02/25/2008	(636520)
32	03/31/2008	(640501)
33	04/08/2008	(640656)
34	02/21/2008	(676641)
35	03/18/2008	(676642)
36	01/16/2008	(676643)
37	04/21/2008	(695187)
38	05/21/2008	(695188)
39	06/20/2008	(716693)
40	07/22/2008	(716694)
41	09/25/2008	(716695)
42	09/18/2008	(716696)
43	09/30/2008	(732135)
44	10/17/2008	(732136)
45	11/10/2008	(732137)
46	06/10/2009	(744245)
47	02/16/2009	(755474)
48	03/13/2009	(755475)
49	04/20/2009	(755476)
50	12/29/2008	(755477)
51	01/13/2009	(755478)

52 05/26/2009 (772542)  
 53 06/11/2009 (772543)  
 54 09/25/2009 (776376)  
 55 10/29/2009 (776825)  
 56 02/11/2010 (817706)  
 57 08/13/2009 (817707)  
 58 09/14/2009 (817708)  
 59 09/14/2009 (817709)  
 60 10/30/2009 (817710)  
 61 12/10/2009 (817711)  
 62 12/10/2009 (817712)  
 63 01/11/2010 (817713)  
 64 03/10/2010 (835442)  
 65 04/20/2010 (835443)  
 66 05/18/2010 (835444)  
 67 06/20/2010 (847667)  
 68 07/20/2010 (862070)  
 69 08/31/2010 (868657)

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

Date: 12/31/2005 (490577) CN601441850  
 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

Date: 02/07/2006 (440201) CN601441850  
 Self Report? NO Classification: Minor  
 Citation: IEL&MR 2 PERMIT  
 Description: The effluent total chlorine residual was 0.83 mg/l.

Self Report? NO Classification: Minor  
 Citation: M&RR 5 PERMIT  
 Description: Flow accuracy check revealed a flow error of 13.8%.

Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Heavy algae growth on clarifier weirs.

Self Report? NO Classification: Moderate  
 Citation: IEL&MR 1 PERMIT  
 Description: Daily average flow limits were exceeded during the months of 12/2002, 11/2003, and 02/2005.

Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Solids levels within the system were higher than generally accepted industry standards for a complete mix system.

Self Report? NO Classification: Moderate  
 Citation: OpR 1 PERMIT  
 PC 2g PERMIT  
 Description: On 01/31/2005, the lift station serving Dundee street failed, causing an unauthorized discharge of an estimated 9,000 gallons. On 12/25/2005 through 12/26/2005, the District reported that a switch failure on the automatic bar screen caused a discharge of an estimated 60,000 gallons of raw sewage.

Date: 07/31/2006 (527676) CN601441850  
 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

Date: 10/31/2006 (551334) CN601441850  
 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  
 Date: 01/31/2007 (588078) CN601441850  
 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  
 Date: 02/28/2007 (588079) CN601441850  
 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  
 Date: 04/30/2007 (527674) CN601441850  
 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  
 Date: 07/31/2007 (605324) CN601441850  
 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: 09/30/2007 (629215) CN601441850  
 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: 04/30/2008 (695188) CN601441850  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 02/28/2009 (755475) CN601441850  
 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: 04/30/2009 (772542) CN601441850  
 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: 06/10/2009 (744245) CN601441850  
 Self Report? NO Classification: Minor  
 Citation: OT 7, Pg. 23 PERMIT  
 Description: Failure by Orange County WCID #1 to submit complete annual sludge reports by  
 September 1, of each year.  
 Self Report? NO Classification: Moderate  
 Citation: EL&MR 1, Pg. 2 PERMIT  
 Description: Failure by Orange County WCID 1 to comply with total suspended solids daily  
 average effluent limitation of 15 mg/l.

Date: 06/30/2009 (817707) CN601441850  
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 (817711) CN601441850  
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: 12/31/2009 (817713) CN601441850  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 (835442) CN601441850  
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: 08/30/2010 CN601441850  
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  
ORANGE COUNTY WATER  
CONTROL AND IMPROVEMENT  
DISTRICT NO. 1  
RN102183035**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2010-1777-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Orange County Water Control and Improvement District No. 1 (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a municipal wastewater treatment facility located 3,500 feet southwest of the intersection of Farm-to-Market Road 1132 and State

Highway 105, with an associated force main near the Brookhollow Lift Station at the end of Monroe Street in Orange County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on August 30, 2010, TCEQ staff documented an unknown quantity of wastewater discharging from a broken force main near the Brookhollow Lift Station at the end of Monroe Street. The discharge flowed into an unnamed tributary of Ten Mile Creek, resulting in a fish kill of approximately 50 fish.
4. The Respondent received notice of the violations on October 18, 2010.
5. The Executive Director recognizes that, by August 30, 2010, the Respondent repaired the force main, removed and disposed of the dead fish and wastewater solids, and disinfected the affected area with bleach.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the discharge of municipal wastewater into water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010875003, Permit Conditions No. 2.g.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Ten Thousand Dollar (\$10,000) administrative penalty.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Orange County Water Control and Improvement District No. 1, Docket No. 2010-1777-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in 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.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 2/10/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of Orange County Water Control and Improvement District No. 1. I am authorized to agree to the attached Agreed Order on behalf of Orange County Water Control and Improvement District No. 1, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Orange County Water Control and Improvement District No. 1 waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

  
Signature

\_\_\_\_\_  
Date 12/8/10

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Orange County Water Control and Improvement District No. 1

\_\_\_\_\_  
District Manager  
Title

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