

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1457-MWD-E **TCEQ ID:** RN101527596 **CASE NO.:** 40326
RESPONDENT NAME: Harris County Water Control and Improvement District No. 89

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: Morningside Place, located at 4055 Fellows Road, approximately 3,600 feet west of the intersection of Fellows Road and Farm-to-Market Road 518 (Cullen Boulevard), Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</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 February 28, 2011. No comments were received.</p> <p>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. Sharyn Smalls, President, Harris County Water Control and Improvement District No. 89, 602 Sawyer Street, Suite 205, Houston, Texas 77007 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input 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 17, 2010</p> <p>Date of NOV/NOE Relating to this Case: August 10, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012939001, Operational Requirements No. 4].</p> <p>2) Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the onsite lift station cover was severely rusted in several places, compromising its structural integrity [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1].</p> <p>3) Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, rust was present on the weirs, walls, piping, and drive of the older clarifier. The weirs on the older clarifier were uneven, causing sludge to accumulate in the weir trough [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012939001,</p>	<p>Total Assessed: \$22,660</p> <p>Total Deferred: \$4,532 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$18,128</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 November 2, 2010, made repairs to the clarifier walkways to restore their structural integrity, and completed the installation of a manual transfer switch and associated electrical modifications to facilitate the use of a portable stand-by generator;</p> <p>b. By November 16, 2010, restored the structural integrity of the onsite lift station cover; and</p> <p>c. By November 18, 2010, removed the accumulated sludge in the clarifier weir trough.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit a summary transmittal letter;</p> <p>ii. Remove and properly dispose of the accumulated grease in the onsite lift station;</p> <p>iii. Develop and implement procedures to prevent grease accumulations in the onsite lift station; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a.i. through a.iii.;</p> <p>c. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Relocate the staff gauge and ultrasonic flow meter to ensure that flow is measured in an accurate and representative manner; and</p>

<p>Operational Requirements No. 1].</p> <p>4) Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Facility walkways, the outfall structure, and the outfall weir were severely rusted [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1].</p> <p>5) Failed to measure flow in an accurate and representative manner. Specifically, the ultrasonic flow meter and staff gauge were located too close to the outfall weir [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(d) and TPDES Permit No. WQ0012939001, Monitoring and Reporting Requirements No. 2 and Operational Requirements No. 5].</p> <p>6) Failed to submit a summary transmittal letter prior to Facility expansion. Specifically, the Interim II treatment facilities were added to the Facility in December 2008 and a summary letter was not submitted [30 TEX. ADMIN. CODE §§ 217.6 and 305.125(1) and TPDES Permit No. WQ0012939001, Other Requirements No. 7].</p> <p>7) Failed to maintain the onsite lift station to prevent an accumulation of grease. Specifically, the onsite lift station had a heavy accumulation of grease [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1].</p>		<p>ii. Restore the structural integrity of the clarifier and outfall structure and make necessary repairs to the clarifier weirs and outfall weir; and</p> <p>d. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.</p>
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Additional ID No(s): WQ0012939001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned PCW	15-Aug-2010	Screening	1-Sep-2010	EPA Due	
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RESPONDENT/FACILITY INFORMATION	
Respondent	Harris County Water Control and Improvement District No. 89
Reg. Ent. Ref. No.	RN101527596
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40326	No. of Violations	5
Docket No.	2010-1457-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Evette Alvarado
		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** **\$11,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **106.0%** Enhancement **Subtotals 2, 3, & 7** **\$11,660**

Notes: Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, 37 months of self-reported effluent violations, and one agreed order with denial of liability.

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**

Total EB Amounts **\$402,828**
 Approx. Cost of Compliance **\$4,361,485**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$22,660**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$22,660**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$22,660**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$4,532**

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 **\$18,128**

Screening Date 1-Sep-2010

Docket No. 2010-1457-MWD-E

PCW

Respondent Harris County Water Control and Improvement District No. 89

Policy Revision 2 (September 2002)

Case ID No. 40326

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101527596

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>)	2	10%
	Other written NOVs	38	76%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 106%

>> 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, one NOV with dissimilar violations, 37 months of self-reported effluent violations, and one agreed order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 106%

Screening Date 1-Sep-2010

Docket No. 2010-1457-MWD-E

PCW

Respondent Harris County Water Control and Improvement District No. 89

Policy Revision 2 (September 2002)

Case ID No. 40326

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101527596

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012939001, Operational Requirements No. 4

Violation Description Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater, as documented during an investigation conducted on June 17, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants that would exceed protective levels as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 Number of violation days 76

Table for event frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$7,500

Three monthly events are recommended from the investigation date (June 17, 2010) to the screening date (September 1, 2010).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,423

Violation Final Penalty Total \$15,450

This violation Final Assessed Penalty (adjusted for limits) \$15,450

Economic Benefit Worksheet

Respondent Harris County Water Control and Improvement District No. 89
Case ID No. 40326
Reg. Ent. Reference No. RN101527596
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$16,600	12-Aug-2009	2-Nov-2010	1.22	\$68	\$1,355	\$1,423
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost provided by the Respondent to maintain safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures. Date required is the date the violation was first documented. Final date is the 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	\$16,600	TOTAL	\$1,423
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Screening Date 1-Sep-2010

Docket No. 2010-1457-MWD-E

PCW

Respondent Harris County Water Control and Improvement District No. 89

Policy Revision 2 (September 2002)

Case ID No. 40326

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101527596

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1

Violation Description

Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, as documented during an investigation conducted on June 17, 2010. Specifically, the onsite lift station cover was rusted in several places. Rust was also present on the weirs, walls, piping, and drive of the older clarifier, as well as on the outfall structure, outfall weir, and plant walkways. The weirs on the older clarifier were uneven, causing sludge to accumulate in the weir trough.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed protective levels as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 76

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (June 17, 2010) to the screening date (September 1, 2010).

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

Statutory Limit Test

Estimated EB Amount \$401,262

Violation Final Penalty Total \$2,060

This violation Final Assessed Penalty (adjusted for limits) \$2,060

Economic Benefit Worksheet

Respondent Harris County Water Control and Improvement District No. 89
Case ID No. 40326
Reg. Ent. Reference No. RN101527596
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$4,340,860	17-Jun-2010	12-Oct-2011	1.32	\$19,108	\$382,154	\$401,262
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Contract cost to construct a new 0.95 million gallon per day wastewater treatment facility, which will completely replace the existing structures, resolving the current issues with rust, structural stability, and uneven weirs and flow measurement. Date required is the investigation date. Final date is the estimated date of contract completion.

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	\$4,340,860	TOTAL	\$401,262
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Screening Date 1-Sep-2010

Docket No. 2010-1457-MWD-E

PCW

Respondent Harris County Water Control and Improvement District No. 89

Policy Revision 2 (September 2002)

Case ID No. 40326

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101527596

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 3

Rule Cite(s) 30 Tex. Admin Code §§ 305.125(1) and 319.11(d) and TPDES Permit No. WQ0012939001, Monitoring and Reporting Requirements No. 2 and Operational Requirements No. 5

Violation Description Failed to measure flow in an accurate and representative manner, as documented during an investigation conducted on June 17, 2010. Specifically, the ultrasonic flow meter and staff gauge were located too close to the outfall weir.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5%
	Potential			x	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%
Human health or the environment will or could be exposed to insignificant amounts of pollutants as a result of this violation.					

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 76 Number of violation days

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

Violation Base Penalty \$500

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,030

This violation Final Assessed Penalty (adjusted for limits) \$1,030

Economic Benefit Worksheet

Respondent Harris County Water Control and Improvement District No. 89
Case ID No. 40326
Reg. Ent. Reference No. RN101527596
Media Water Quality
Violation No. 3

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				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

Economic benefit included with violation no. 2.

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 \$0

TOTAL \$0

Screening Date 1-Sep-2010

Docket No. 2010-1457-MWD-E

PCW

Respondent Harris County Water Control and Improvement District No. 89

Policy Revision 2 (September 2002)

Case ID No. 40326

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101527596

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 217.6 and 305.125(1) and TPDES Permit No. WQ0012939001, Other Requirements No. 7

Violation Description

Failed to submit a summary transmittal letter prior to Facility expansion, as documented during an investigation conducted on June 17, 2010. Specifically, the Interim II treatment facilities were added to the Facility in December 2008 and a summary letter was not submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

76 Number of violation days

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

Violation Base Penalty \$1,000

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,060

This violation Final Assessed Penalty (adjusted for limits) \$2,060

Economic Benefit Worksheet

Respondent Harris County Water Control and Improvement District No. 89
Case ID No. 40326
Reg. Ent. Reference No. RN101527596
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	1-Dec-2008	28-Feb-2011	2.24	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to submit a summary transmittal letter to the TCEQ. Date required is the date the Facility was expanded. 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

\$25

TOTAL

\$3

Screening Date 1-Sep-2010

Docket No. 2010-1457-MWD-E

PCW

Respondent Harris County Water Control and Improvement District No. 89

Policy Revision 2 (September 2002)

Case ID No. 40326

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101527596

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1

Violation Description

Failed to maintain the onsite lift station to prevent an accumulation of grease, as documented during an investigation conducted on June 17, 2010. Specifically, the onsite lift station had a heavy accumulation of grease.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

76 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 from the investigation date (June 17, 2010) to the screening date (September 1, 2010).

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

Statutory Limit Test

Estimated EB Amount \$140

Violation Final Penalty Total \$2,060

This violation Final Assessed Penalty (adjusted for limits) \$2,060

Economic Benefit Worksheet

Respondent Harris County Water Control and Improvement District No. 89
Case ID No. 40326
Reg. Ent. Reference No. RN101527596
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,500	17-Jun-2010	28-Feb-2011	0.70	\$88	n/a	\$88
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	17-Jun-2010	28-Feb-2011	0.70	\$53	n/a	\$53

Notes for DELAYED costs

Estimated cost to remove and properly dispose of accumulated grease in the lift station (\$2,500) and to develop and implement procedures to prevent grease accumulations in the lift station (\$1,500). Date required is the investigation date. 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	\$140
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600736839 Harris County Water Control and Improvement District 89	Classification: AVERAGE	Rating: 2.83
Regulated Entity:	RN101527596 MORNINGSIDE PLACE	Classification: AVERAGE	Site Rating: 2.83
ID Number(s):	WASTEWATER PERMIT		WQ0012939001
	WASTEWATER EPA ID		TX0095842
	WASTEWATER LICENSING LICENSE		WQ0012939001
Location:	4055 Fellows Rd, approx. 3,600 ft. west of the intx. of Fellows Rd. and FM 518 (Cullen Blvd), Harris Co., Tx		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	September 14, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 14, 2005 to September 14, 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: 11/06/2008 ADMINORDER 2008-0299-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 09/19/2005 (446090)
 - 2 10/26/2005 (478284)
 - 3 11/29/2005 (478285)
 - 4 01/04/2006 (478286)
 - 5 02/03/2006 (478287)
 - 6 02/22/2006 (478282)
 - 7 03/24/2006 (478283)
 - 8 04/24/2006 (504530)
 - 9 05/23/2006 (504531)
 - 10 06/14/2006 (504532)
 - 11 07/13/2006 (504533)

12 08/23/2006 (526849)
13 09/18/2006 (526850)
14 10/02/2006 (487796)
15 10/13/2006 (526851)
16 11/16/2006 (626927)
17 12/13/2006 (626929)
18 01/12/2007 (626931)
19 02/14/2007 (626918)
20 03/14/2007 (626919)
21 04/16/2007 (626920)
22 05/16/2007 (626921)
23 05/30/2007 (560404)
24 06/13/2007 (626922)
25 07/19/2007 (626923)
26 08/23/2007 (626924)
27 09/14/2007 (626925)
28 10/17/2007 (626926)
29 11/16/2007 (626928)
30 12/18/2007 (626930)
31 01/18/2008 (626932)
32 01/28/2008 (612401)
33 01/31/2008 (616210)
34 02/19/2008 (676030)
35 03/20/2008 (676031)
36 04/24/2008 (676032)
37 05/20/2008 (694406)
38 06/26/2008 (694407)
39 07/18/2008 (694408)
40 08/20/2008 (715802)
41 09/29/2008 (715803)
42 10/20/2008 (715804)
43 11/21/2008 (731479)
44 12/22/2008 (731480)
45 01/20/2009 (731481)
46 02/20/2009 (754809)
47 03/21/2009 (754810)
48 04/20/2009 (754811)
49 05/26/2009 (772002)
50 06/15/2009 (772003)
51 08/06/2009 (816073)
52 08/19/2009 (816074)
53 08/31/2009 (764878)
54 09/18/2009 (816075)
55 10/19/2009 (816076)
56 11/19/2009 (816077)
57 12/19/2009 (816078)
58 01/18/2010 (816079)
59 02/20/2010 (816072)
60 03/15/2010 (834835)
61 04/22/2010 (834836)
62 04/30/2010 (799817)
63 05/18/2010 (834837)
64 06/14/2010 (847473)
65 07/18/2010 (861893)
66 08/10/2010 (842848)

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

Date: 09/30/2005 (478284)

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: 08/31/2006 (526850)
 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: 10/02/2006 (487796)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(g)(4)(B)(iii)
 Description: Failure to provide back-up aeration.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.7(c)
 Description: Failure to provide adequate lightening at the wastewater treatment plant (WWTP).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to properly maintain the wastewater treatment plant.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. 12939-001 PERMIT
 Description: Failure to maintain compliance with permitted effluent limits for ammonia.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.5(a)
 Description: Failure to measure flow after the final treatment unit.
 Date: 10/31/2006 (626927)
 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: 06/30/2007 (626923)
 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: 07/31/2007 (626924)
 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: 08/31/2007 (626925)
 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 (626926) CN600736839
 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: 10/31/2007 (626928) CN600736839
 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: 11/30/2007 (626930) Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007 (626932) CN600736839 Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (676030) Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2008 (676031) Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2008 (676032) Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2008 (694406) CN600736839 Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (694407) Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2008 (694408) CN600736839 Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2008 (715802) CN600736839 Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2008 (715803) CN600736839 Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

 Date: 09/30/2008 (715804)
 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 (731479)
 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 (731480)
 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: 12/31/2008 (731481) CN600736839
 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 (754809)
 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: 02/17/2009 (722565)
 Self Report? NO Classification: Moderate
 Citation: TPDES Permit No. 12930-001, M&R No. 7A PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(19)
 Description: Failure to submit a noncompliance notification within twenty four hours by phone
 or fax and/or a written notification within five working days for the unauthorized
 discharge of wastewater from the collection system. A noncompliance
 notification was not provided as required for the discharge of wastewater from
 the sanitary sewer manhole located on the bank of Harris County Flood Control
 Ditch north of the wastewater treatment facility.

 Date: 02/28/2009 (754810) CN600736839
 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 (772002) CN600736839
 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 (772003) CN600736839
 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: 06/30/2009 (816073)

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: 07/31/2009 (816074)

CN600736839

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: 08/31/2009 (764878)

CN600736839

Self Report? NO

Classification: Moderate

Citation: TPDES Permit No. 12930-001, M&R No. 7A PERMIT
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(19)

Description: Failure to submit a noncompliance notification within twenty four hours by phone or fax and/or a written notification within five working days for the unauthorized discharge of wastewater from the collection system. A noncompliance notification was not provided as required for the discharge of wastewater from the sanitary sewer manhole located on the bank of Harris County Flood Control Ditch north of the wastewater treatment facility.

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. WQ0012939001 PERMIT

Description: Failure to provide adequate safeguards to prevent unauthorized discharges from the wastewater treatment plant and lift stations. Dual power sources, generators, dri-prime pumps, or retention have not been provided at the lift stations or treatment plant to prevent unauthorized discharges.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to maintain the high-level visual alarm on the on-site lift station.

Date: 08/31/2009 (816075)

CN600736839

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 (816077)

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: 11/30/2009 (816078)

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 (816079)

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 (816072)

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 (834836) CN600736839
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 (834837) CN600736839
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 (847473)
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 (861893)
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
HARRIS COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 89
RN101527596**

§
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§
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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1457-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 the Harris County Water Control and Improvement District No. 89 ("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 facility at 4055 Fellows Road, approximately 3,600 feet west of the intersection of Fellows Road and Farm-to-Market Road 518 (Cullen Boulevard) in Harris County, Texas (the "Facility").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of 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 15, 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 Twenty-Two Thousand Six Hundred Sixty Dollars (\$22,660) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eighteen Thousand One Hundred Twenty-Eight Dollars (\$18,128) of the administrative penalty and Four Thousand Five Hundred Thirty-Two Dollars (\$4,532) 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 the Respondent has implemented the following corrective measures at the Facility:
 - a. By November 2, 2010, made repairs to the clarifier walkways to restore their structural integrity, and completed the installation of a manual transfer switch and associated electrical modifications to facilitate the use of a portable stand-by generator;
 - b. By November 16, 2010, restored the structural integrity of the onsite lift station cover; and
 - c. By November 18, 2010, removed the accumulated sludge in the clarifier weir trough.
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:

1. Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012939001, Operational Requirements No. 4, as documented during an investigation conducted on June 17, 2010.
2. Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1, as documented during an investigation conducted on June 17, 2010. Specifically, the onsite lift station cover was severely rusted in several places, compromising its structural integrity.
3. Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1, as documented during an investigation conducted on June 17, 2010. Specifically, rust was present on the weirs, walls, piping, and drive of the older clarifier. The weirs on the older clarifier were uneven, causing sludge to accumulate in the weir trough.
4. Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1, as documented during an investigation conducted on June 17, 2010. Specifically, the Facility walkways, the outfall structure, and the outfall weir were severely rusted.
5. Failed to measure flow in an accurate and representative manner, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(d) and TPDES Permit No. WQ0012939001, Monitoring and Reporting Requirements No. 2 and Operational Requirements No. 5, as documented during an investigation conducted on June 17, 2010. Specifically, the ultrasonic flow meter and staff gauge were located too close to the outfall weir.
6. Failed to submit a summary transmittal letter prior to Facility expansion, in violation of 30 TEX. ADMIN. CODE §§ 217.6 and 305.125(1) and TPDES Permit No. WQ0012939001, Other Requirements No. 7, as documented during an investigation conducted on June 17, 2010. Specifically, the Interim II treatment facilities were added to the Facility in December 2008 and a summary letter was not submitted.
7. Failed to maintain the onsite lift station to prevent an accumulation of grease, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0012939001, Operational Requirements No. 1, as documented during an investigation conducted on June 17, 2010. Specifically, the onsite lift station had a heavy accumulation of grease.

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: Harris County Water Control and Improvement District No. 89, Docket No. 2010-1457-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:
 - i. Submit a summary transmittal letter in accordance with the requirements of 30 TEX. ADMIN. CODE § 217.6;
 - ii. Remove and properly dispose of the accumulated grease in the onsite lift station; and
 - iii. Develop and implement procedures to prevent grease accumulations in the onsite lift station.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i through 2.a.iii. The certification shall be submitted in accordance with Ordering Provision No. 2.d;
 - c. Within 180 days after the effective date of this Agreed Order;
 - i. Relocate the staff gauge and ultrasonic flow meter to ensure that flow is measured in an accurate and representative manner in accordance with the guidelines in the Water Measurement Manual; and
 - ii. Restore the structural integrity of the clarifier and outfall structure and make necessary repairs to the clarifier weirs and outfall weir.
 - d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall 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 fines 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

2/14/2011
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

12/7/10
Date

Sharyn Smalls
Name (Printed or typed)
Authorized Representative of
Harris County Water Control and Improvement District No. 89

President
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.