

**CAPTION: Docket No. 2010-0347-MWD-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Rayburn Country Municipal Utility District in Jasper County; RN102328564; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, Laurie Eaves)**

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2010-0347-MWD-E **TCEQ ID:** RN102328564 **CASE NO.:** 39249  
**RESPONDENT NAME:** Rayburn Country Municipal Utility District

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 166o 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:** Rayburn Country Municipal Utility District, located approximately 2,000 feet north of the intersection of Recreational Road 255 and Farm-to-Market Road 1007 and three miles west of the intersection of United States Highway 96 and Recreational Road 255, Jasper County

**TYPE OF OPERATION:** Domestic wastewater treatment system

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on April 18, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  
**Respondent:** Mr. Arthur B. Shepard, President, Rayburn Country Municipal Utility District, P.O. Box 5060, Sam Rayburn, Texas 75951  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> February 1, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 26, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>1) Failed to comply with permitted effluent limitations for ammonia nitrogen and total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010788001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009, by September 1, 2009 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010788001, Sludge Reporting Provisions].</p>	<p><b>Total Assessed:</b> \$10,035</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 (Due) to General Revenue:</b> \$305 (remaining \$9,730 due in 35 monthly payments of \$278 each)</p> <p><b>Compliance History Classification:</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> This is a Findings Order because the Respondent had three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the 2009 annual sludge report and updated procedures to ensure the timely submittal of annual sludge reports on March 8, 2010.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to, within 470 days after the effective date of the Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010788001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0010788001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	1-Mar-2010	Screening	4-Mar-2010	EPA Due	
	PCW	3-Mar-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Rayburn Country Municipal Utility District
Reg. Ent. Ref. No.	RN102328564
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39249	No. of Violations	2
Docket No.	2010-0347-MWVD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

### 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: An enhancement is recommended for nineteen monthly self-reported effluent violations, two NOVs with same or similar violations and two final enforcement orders containing 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 4-Mar-2010

Docket No. 2010-0347-MWD-E

PCW

Respondent Rayburn Country Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 39249

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328564

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	21	105%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 145%

>> 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

An enhancement is recommended for nineteen monthly self-reported effluent violations, two NOVs with same or similar violations and two final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 145%

Screening Date 4-Mar-2010

Docket No. 2010-0347-MWD-E

PCW

Respondent Rayburn Country Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 39249

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328564

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010788001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review on February 1, 2010, and shown in the attached Effluent Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Also, total suspended solids were considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 Number of violation days 155

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$347,545

Violation Final Penalty Total \$9,800

This violation Final Assessed Penalty (adjusted for limits) \$9,800

## Economic Benefit Worksheet

**Respondent** Rayburn Country Municipal Utility District  
**Case ID No.** 39249  
**Reg. Ent. Reference No.** RN102328564  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,300,000	31-Dec-2008	25-Oct-2012	3.82	\$16,550	\$330,995	\$347,545
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

Estimated costs to construct a parallel treatment train and return to compliance with the permitted effluent limitations. The Date Required is the first date of noncompliance. The Final Date is the expected date of compliance with permitted effluent limitations.

### 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

\$1,300,000

TOTAL

\$347,545

Screening Date 4-Mar-2010

Docket No. 2010-0347-MWD-E

PCW

Respondent Rayburn Country Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 39249

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328564

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010788001, Sludge Reporting Provisions

Violation Description

Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009, by September 1, 2009, as documented during a record review conducted on February 1, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 70% of permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

184 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes

The Respondent achieved compliance March 8, 2010.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$235

This violation Final Assessed Penalty (adjusted for limits) \$235

## Economic Benefit Worksheet

**Respondent** Rayburn Country Municipal Utility District  
**Case ID No.** 39249  
**Reg. Ent. Reference No.** RN102328564  
**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)	\$100	1-Sep-2009	8-Mar-2010	0.52	\$0	\$3	\$4
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	\$250	1-Sep-2009	8-Mar-2010	0.52	\$6	n/a	\$6
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

#### Notes for DELAYED costs

Estimated cost to prepare and submit the annual sludge report and to update procedures. The Date Required is the date the report was due. The Final Date is the date the report was submitted and procedures were updated.

### 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

\$350

**TOTAL**

\$10



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600656581	Rayburn Country Municipal Utility District	Classification: AVERAGE	Rating: 4.82
Regulated Entity:	RN102328564	RAYBURN COUNTRY MUD	Classification: AVERAGE	Site Rating: 4.82
ID Number(s):	WASTEWATER	PERMIT	WQ0010788001	
	WASTEWATER	PERMIT	TPDES0023701	
	WASTEWATER	PERMIT	TX0023701	
	WASTEWATER LICENSING	LICENSE	WQ0010788001	
Location:	LOCATED APPROXIMATELY 2,000 FEET NORTH OF THE INTERSECTION OF RECREATIONAL ROAD 255 AND FARM-TO-MARKET ROAD 1007 AND 3 MILES WEST OF THE INTERSECTION OF UNITED STATES HIGHWAY 96 AND RECREATIONAL ROAD 255 IN JASPER COUNTY, TEXAS			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	March 02, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 02, 2005 to March 02, 2010			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Carlie Konkol Phone: (512) 239-0735

### 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |
| 6. Rating Date: 9/1/2009 Repeat Violator: NO   |     |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date:	01/26/2006	ADMINORDER 2003-1296-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:	10788-001 OP 10788-001 PERMIT	
Description:	Failure to comply with the permit limit for effluents for TPDES Permit No. 10788-001.	
Classification:	Moderate	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.3	
Rqmt Prov:	10788 PERMIT 10788-001 OP	
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Classification:	Minor	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	10788-001 OP 10788-001 PERMIT	
Description:	Failure to comply with test procedures for the analysis as specified in 30 TAC 319.11 through 319.12, and to include additional pH and dissolved oxygen measurements in the calculation of self-reported data.	
Classification:	Moderate	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(18)	
Rqmt Prov:	10788-001 OP 10788-001 PERMIT	
Description:	Failure to report 40% noncompliances to the TCEQ within the required notification period.	

Effective Date: 4/14/2008

ADMINORDER 2007-1519-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.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

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	03/17/2005	(382826)
2	04/22/2005	(420632)
3	05/18/2005	(420633)
4	06/16/2005	(420634)
5	07/21/2005	(420635)
6	10/03/2005	(470059)
7	11/04/2005	(470060)
8	12/07/2005	(470061)
9	01/20/2006	(470062)
10	01/20/2006	(470063)
11	02/21/2006	(470057)
12	03/24/2006	(470058)
13	04/04/2006	(454839)
14	04/24/2006	(499224)
15	05/18/2006	(499225)
16	06/16/2006	(499226)
17	07/13/2006	(521263)
18	08/14/2006	(521264)
19	09/25/2006	(521265)
20	11/03/2006	(545779)
21	11/16/2006	(545780)
22	12/18/2006	(545781)
23	01/29/2007	(545782)
24	03/05/2007	(577597)
25	04/10/2007	(577598)
26	04/18/2007	(577599)
27	06/07/2007	(577600)
28	06/29/2007	(577601)
29	07/19/2007	(602234)
30	09/10/2007	(572239)
31	09/26/2007	(602235)
32	09/27/2007	(602237)
33	09/28/2007	(602236)
34	10/11/2007	(543731)
35	10/22/2007	(620404)
36	12/14/2007	(600131)
37	01/21/2008	(620405)
38	01/21/2008	(620406)
39	01/21/2008	(620407)
40	02/19/2008	(672699)
41	03/20/2008	(690713)
42	05/19/2008	(671007)

43	05/30/2008	(690715)
44	06/16/2008	(690714)
45	06/30/2008	(711563)
46	07/21/2008	(711564)
47	08/07/2008	(688541)
48	08/15/2008	(687010)
49	08/31/2008	(728074)
50	09/12/2008	(711565)
51	10/15/2008	(728075)
52	10/22/2008	(728076)
53	11/24/2008	(728077)
54	12/22/2008	(728078)
55	02/02/2009	(750989)
56	02/16/2009	(750988)
57	03/16/2009	(768910)
58	04/16/2009	(768911)
59	05/20/2009	(768912)
60	06/18/2009	(748424)
61	02/26/2010	(790452)

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

Date: 06/30/2005 (420635) CN600656581  
 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: 09/30/2005 (470060) CN600656581  
 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: 02/28/2006 (470058) CN600656581  
 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: 04/04/2006 (454839) CN600656581  
 Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Failure by Rayburn Country MUD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Failure by Rayburn Country MUD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Failure by Rayburn Country MUD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Failure by Rayburn Country MUD to prevent the discharge of pollutants into the receiving stream.

Self Report? NO Classification: Moderate  
 Citation: M&RR 7c PERMIT  
 Description: Failure by Rayburn Country MUD to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.

Self Report? NO Classification: Minor  
 Citation: M&RR 1 PERMIT  
 PC 1a PERMIT  
 Description: Failure by Rayburn Country MUD to accurately complete the discharge monitoring reports (DMRs) and have them readily available for review at the time of the investigation.

Self Report? NO Classification: Minor  
 Citation: M&RR 5 PERMIT  
 Description: Failure by the permittee to have the secondary flow measuring device calibrated at least annually or as often as necessary to ensure accuracy.

Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Failure by Rayburn Country MUD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Failure by Rayburn Country MUD to properly manage the solids inventory in the WWTP.

Self Report? NO Classification: Moderate  
 Citation: EL&MR 1 PERMIT  
 Description: Failure by the permittee to discharge effluent that is compliant with permitted limitations.

Review of DMRs  
 Feb 2004 - June 2005

Date: 10/31/2006 (545780) CN600656581  
 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 (577597) CN600656581  
 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 (577598) CN600656581  
 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: 05/31/2007 (577601) CN600656581  
 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: 06/30/2007 (602234) CN600656581  
 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 (602236) CN600656581  
 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 (602237) CN600656581  
 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 (620404) CN600656581  
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 (620406) CN600656581  
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: 12/14/2007 (600131) CN600656581  
Self Report? NO Classification: Minor  
Citation: OpR 1 PERMIT  
Description: Failure by Rayburn Country MUD to properly manage the solids inventory in the WWTP.

Self Report? NO Classification: Minor  
Citation: SP III G PERMIT  
Description: Failure by the permittee to properly complete the trip tickets used to transport sludge.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 317 317.4(d)  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 317 317.2  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 317 317.3  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Citation: M&RR 5 PERMIT  
Description: Failure by the permittee to insure that the secondary flow measuring device is operating within the acceptable +/- 10% margin of error.

Self Report? NO Classification: Minor  
Citation: M&RR 7c PERMIT  
Description: Failure by the permittee to notify the TCEQ Region 10 and the Manger of the Enforcement Section III of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.

Self Report? NO Classification: Minor  
Citation: PC 1a PERMIT  
Description: Failure by the permittee to properly submit the January 2007 DMR.

Self Report? NO Classification: Minor  
Citation: OpR 1 PERMIT  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Citation: OpR 1 PERMIT  
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 04/30/2008 (690715) CN600656581  
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: 05/31/2008 (711563) CN600656581  
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 (750989) CN600656581  
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: 03/31/2009 (768911) CN600656581  
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 CN600656581  
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 CN600656581  
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 CN600656581  
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



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	
<b>RAYBURN COUNTRY MUNICIPAL</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>UTILITY DISTRICT</b>	<b>§</b>	
<b>RN102328564</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

## **AGREED ORDER** **DOCKET NO. 2010-0347-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 Rayburn Country Municipal Utility District (“the Respondent”) under the authority of TEX. WATER Code chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have 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 domestic wastewater treatment system located approximately 2,000 feet north of the intersection of Recreational Road 255 and Farm-

to-Market Road 1007 and three miles west of the intersection of United States Highway 96 and Recreational Road 255 in Jasper 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 a record review on February 1, 2010, TCEQ staff documented the following effluent exceedances from the monthly self-reported discharge monitoring reports ("DMR"):

<b>Effluent Table</b>				
Monitoring Periods	Permit Effluent Limits			
	Ammonia Nitrogen Daily Average Concentration 3.0 mg/L	TSS Daily Average Concentration 15.0 mg/L	TSS Daily Average Loading 38 lbs/day	TSS Single Grab Maximum Concentration 60.0 mg/L
December 2008	C	17.4	59.7	C
March 2009	C	20.8	48.6	C
July 2009	3.2	C	C	C
August 2009	C	27.4	C	62.0
October 2009	C	26.2	C	68.0

TSS – Total Suspended Solids

lbs/day – Pounds per Day

C - Compliant

mg/L – Milligrams per Liter

4. During a record review on February 1, 2010, TCEQ staff documented that the Respondent did not timely submit the annual sludge report for the monitoring period ending July 31, 2009 by September 1, 2009.
5. The Respondent received notice of the violations on March 3, 2010.
6. The Executive Director recognizes that the Respondent submitted the 2009 annual sludge report and updated procedures to ensure the timely submittal of annual sludge reports on March 8, 2010.

## 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 comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010788001, Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009, by September 1, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010788001, Sludge Reporting Provisions.
4. 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.
5. An administrative penalty in the amount of Ten Thousand Thirty-Five Dollars (\$10,035) 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 Three Hundred Five Dollars (\$305) of the administrative penalty. The remaining amount of Nine Thousand Seven Hundred Thirty Dollars (\$9,730) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Seventy-Eight Dollars (\$278) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### **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 Thirty-Five Dollars (\$10,035) as set forth in Section II, Paragraph 5 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: Rayburn Country Municipal Utility District, Docket No. 2010-0347-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, within 470 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010788001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

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. 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.
7. 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.
8. 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.
9. 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.

10. 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

3/24/2011  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Rayburn Country Municipal Utility District. I am authorized to agree to the attached Agreed Order on behalf of Rayburn Country Municipal Utility District, 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, Rayburn Country Municipal Utility District 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

January 31, 2011  
Date

Arthur B. Shepard  
Name (Printed or typed)  
Authorized Representative of  
Rayburn Country Municipal Utility District

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.