Executive Summary – Enforcement Matter – Case No. 41410
Victoria County Water Control and Improvement District No. 1
RN101516714
Docket No. 2011-0526-MWD-E

Order Type:
Findings Agreed Order
Findings Order Justification:
Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).
Media:
MWD
Small Business:
No
Location(s) Where Violation(s) Occurred:
Victoria County WCID No. 1, located at 279 Halk Road, northwest of and adjacent to the Missouri Pacific Railroad right-of-way, approximately 3,000 feet northeast along the Missouri Pacific Railroad from its intersection with State Highway 185, Bloomington, Victoria County
Type of Operation:
Municipal wastewater treatment facility
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: July 1, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $8,360
Amount Deferred for Expedited Settlement: $0
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $8,360
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

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Docket No. 2011-0526-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 10, 2011
Date(s) of NOE(s): March 23, 2011

Violation Information

Failed to maintain compliance with permitted effluent limitations for flow, total suspended solids, ammonia nitrogen, and carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010513002, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification demonstrating compliance with the permitted effluent limitations of TPDES Permit No. WQ0010513002, 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.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Elroy C. Alex, Jr., President, Victoria County Water Control and Improvement District No. 1, P.O. Box 667, Bloomington, Texas 77951
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	28-Mar-2011				
PCW	5-Apr-2011	Screening	31-Mar-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Victoria County Water Control and Improvement District No. 1		
Reg. Ent. Ref. No.	RN101516714		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41410	No. of Violations	1
Docket No.	2011-0526-MWD-E	Order Type	Findings
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* **$4,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **114.0%** Enhancement *Subtotals 2, 3, & 7* **$4,560**

Notes: Enhancement for 11 monthly self-reported effluent violations, two NOVs with same/similar violations, two NOVs with dissimilar violations, one order with denial of liability, and one order without 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 $804
Approx. Cost of Compliance $10,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$8,560**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-2.3%** *Adjustment* **-$200**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction to prevent self-reported violations from overly impacting the penalty amount.

Final Penalty Amount **$8,360**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$8,360**

DEFERRAL **0.0%** Reduction *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$8,360**

Screening Date 31-Mar-2011 **Docket No.** 2011-0526-MWD-E **PCW**

Respondent Victoria County Water Control and Improvement I

Policy Revision 2 (September 2002)

Case ID No. 41410

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516714

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 (*number of NOVs meeting criteria*)	13	65%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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	1	25%
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) 114%

>> 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 11 monthly self-reported effluent violations, two NOVs with same/similar violations, two NOVs with dissimilar violations, one order with denial of liability, and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 114%

Screening Date	31-Mar-2011	**Docket No.** 2011-0526-MWD-E	**PCW**
Respondent	Victoria County Water Control and Improvement District No. 1		*Policy Revision 2 (September 2002)*
Case ID No.	41410		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101516714		
Media [Statute]	Water Quality		
Enf. Coordinator	Evette Alvarado		

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010513002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to maintain compliance with permitted effluent limitations, as documented during a record review conducted on March 10, 2011, and shown in the attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate carbonaceous biochemical oxygen demand and ammonia nitrogen to determine if the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and total suspended solids were also considered. As a result of these discharges, human health and the environment have been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 4 | 181 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

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 $4,000

Economic Benefit (EB) for this violation

Estimated EB Amount $804

Statutory Limit Test

Violation Final Penalty Total $8,360

This violation Final Assessed Penalty (adjusted for limits) $8,360

Economic Benefit Worksheet

Respondent Victoria County Water Control and Improvement District No. 1
Case ID No. 41410
Reg. Ent. Reference No. RN101516714
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$10,000	28-Feb-2010	8-Oct-2011	1.61	$804	n/a	$804

Notes for DELAYED costs: Estimated cost to determine the cause of noncompliance and make necessary adjustments to the Facility to return to compliance with permitted effluent limitations. Date required is the first month of noncompliance. Final date is the expected date of compliance.

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance $10,000

TOTAL $804

Victoria County Water Control and Improvement District No. 1
TPDES Permit No. WQ0010513002
Docket No. 2011-0526-MWD-E

Violation Month	Flow (Limit 0.3 million gallons per day)	TSS Daily Avg. Conc. (Limit 15 mg/L)	TSS Daily Avg. Loading (Limit 38 lbs/day)	TSS Single Grab Conc. (Limit 60 mg/L)	NH3-N Daily Avg. Loading (Limit 7.5 lbs/day)	CBOD Daily Avg. Conc. (Limit 10 mg/L)	CBOD Daily Avg. Loading (Limit 25 lbs/day)
February 2010	c	69.5	244.3	246	c	13.5	35.7
March 2010	c	18.4	c	c	c	c	c
May 2010	c	16.2	c	c	c	c	c
September 2010	0.9	c	c	c	10	c	c
November 2010	c	38.6	56.1	64	c	c	c
December 2010	c	34.5	54.7	c	c	c	c

TSS = total suspended solids | c=compliant | Avg. = Average | lbs/day = pounds per day | Conc.= concentration | NH3-N = ammonia nitrogen | mg/L = milligrams per liter | CBOD= carbonaceous biochemical oxygen demand

Compliance History

Customer/Respondent/Owner-Operator: CN600736946 Victoria County Water Control and Improvement District No. 1 Classification: AVERAGE Rating: 5.77

Regulated Entity: RN101516714 VICTORIA CO WCID 1 Classification: AVERAGE Site Rating: 11.30

ID Number(s): WASTEWATER PERMIT WQ0010513002

WASTEWATER EPA ID TX0122246

Location: 279 Halk Rd. NW of and adj to the Mo-Pac. RR right-of-way, approx. 3,000 feet NE along the Mo-Pac RR from its intersec with SH 185 in Bloomington, Victoria Co., Tx

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: March 31, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 31, 2006 to March 31, 2011

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: 04/03/2008 ADMINORDER 2007-1375-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: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 319, SubChapter A 319.7(d)
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.

Effective Date: 11/13/2009 ADMINORDER 2009-0662-MWD-E

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: Operational Requirements; No. 1, Pg. 9 PERMIT

Description: Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, excessive foaming was observed in the aeration basins and several of the diffusers were clogged.

Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(4)
Rqmt Prov: Permit Conditions; No. 2g, Pg. 7 PERMIT

Description: Failure to prevent the discharge of wastewater into or adjacent to water in the state. Specifically, an unauthorized discharge occurred on January 13, 2009 which was caused by a sewer main break at First Street and North Leonard discharging approximately 50 gallons of wastewater.

Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitation No. 1 PERMIT
Effluent Limitation; No. 2, Pg. 2 PERMIT

Description: Failure to comply with permit effluent limits for TSS and Cl2.

Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.4
Rqmt Prov: Monitoring Requirement No. 3 PERMIT
Monitoring Requirements; No. 6, Pg. 2 PERMIT

Description: Failure to monitor the effluent characteristics at the frequency specified in the permit. Specifically, effluent parameter for dissolved oxygen was not monitored once a week during the months of July 2008, and from February 1, 2009 through March 12, 2009, and the effluent parameter for pH was not monitored once a month during the months of July 2008 and February 2009.

Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Operational Requirements; No. 1, Pg. 9 PERMIT

Description: Failure to retain process control, maintenance, and operations records at the Facility, or make readily available for review by a TCEQ representative for a period of three years. Specifically, process control, maintenance, and operations records from September 2007 through January 2009 were not readily available for review by a TCEQ representative.

Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Monitoring & Reporting Requirements PERMIT

Description: Failure to perform accurate loading calculations. Specifically, the operator was using the weekly average instead of the daily average for flow to perform the loading calculations.

Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.7(d)
Rqmt Prov: Reporting Requirement; No. 1, Pg. 4 PERMIT

Description: Failure to submit the monthly effluent reports by the 20th day of the following month. Specifically, the Respondent failed to submit the March, April, August, September, and November 2008 through January 2009 discharge monitoring reports ("DMRs") by the 20th day of the following month.

Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Reporting Requirement; No. 7.c., Pg. 6 PERMIT

Description: Failure to report effluent violations which deviates from the permitted effluent limitation by more than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance. Specifically, the Respondent failed to submit written notification to the Regional Office and the Enforcement Division once becoming aware that the TSS effluent limitation was exceed by more than 40% in January 2009.

Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
Rqmt Prov: Monitoring Requirement, No. 1, Pg. 4 PERMIT

Description: Failure to conduct quality assurance requirements for wastewater analyses. Specifically, the operator was not performing quality assurance/quality control checks on the Chlorine Pocket Colorimeter II meter on a 10% basis.

Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov: Sludge Provisions III. G, Pg. 22 PERMIT

Description: Failure to timely submit the annual sludge report for the reporting period ending July 31, 2008 by September 1, 2008.

Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.128
Rqmt Prov: Reporting Requirements; No. 10, Pg. 6 PERMIT

Description: Failure to ensure that all reports and other information requested by the Executive Director are signed by the authorized person. Specifically, the electronic discharge monitoring reports ("eDMRs") for November 2008 through February 2009 were not submitted by an authorized person.

Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)

Description: Failure to conform to the flow measurements, equipment, installation, and procedures prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the Executive Director. Specifically, a staff gauge was not installed on the final 90 degree V-notch weir; therefore, a flow accuracy check could not be performed.

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	05/18/2006	(506597)
2	05/19/2006	(506598)
3	06/19/2006	(506599)
4	11/10/2006	(518257)
5	07/10/2006	(528769)
6	08/11/2006	(528770)
7	09/21/2006	(528771)
8	01/23/2007	(534711)
9	04/25/2007	(538599)
10	03/02/2007	(542228)
11	06/20/2007	(563661)
12	07/11/2007	(564582)
13	02/22/2007	(589371)
14	04/28/2007	(589372)
15	06/04/2007	(589373)
16	06/25/2007	(589374)
17	08/09/2007	(605834)
18	08/30/2007	(605835)
19	10/25/2007	(632248)
20	08/04/2008	(638009)
21	05/07/2008	(657281)
22	02/19/2008	(677500)
23	04/01/2008	(696259)
24	06/18/2008	(696260)
25	07/17/2008	(696261)
26	10/24/2008	(706440)
27	08/15/2008	(717916)
28	10/01/2008	(717917)
29	04/29/2009	(739602)
30	03/27/2009	(740027)
31	03/17/2009	(756364)
32	03/18/2009	(756365)
33	04/09/2009	(756366)
34	06/30/2009	(759626)
35	10/21/2009	(763806)
36	05/18/2009	(773323)
37	06/12/2009	(773324)
38	11/04/2009	(780825)
39	12/09/2009	(784942)
40	03/23/2010	(794682)
41	07/09/2010	(827541)
42	04/15/2010	(836320)
43	05/18/2010	(836321)
44	07/19/2010	(862361)
45	08/19/2010	(868985)
46	09/16/2010	(875833)
47	10/15/2010	(883417)
48	11/10/2010	(889804)

49 12/14/2010 (898206)
50 06/21/2010 (904069)
51 01/18/2011 (904070)
52 03/24/2011 (905529)

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

Date: 07/31/2006 (528770) CN600736946
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 (528771) CN600736946
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: 11/10/2006 (518257) CN600736946
Self Report? NO Classification: Minor
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions 2.g. PERMIT
Description: Failure to prevent an unauthorized discharge of wastewater or any other waste.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions 2.d. PERMIT
Description: Failure to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation which has the reasonable likelihood of adversely affecting human health or the environment.

Date: 01/24/2007 (534711) CN600736946
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.3(e)(5)
Description: Failure to provide an audio-visual alarm system (red flashing light and horn) for all lift stations.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.6(b)(1)(E)
Description: Failure to provide forced mechanical ventilation for the chlorination room which will provide a complete air change a minimum of every three minutes.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations 2. (page 2) OP
Description: Failure to maintain a chlorine residual in the effluent of at least 1.0 milligrams per liter (mg/l) after a detention time of at least 20 minutes (based on peak flow).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring and Reporting 2. (page 4) OP
Description: Failure to ensure that test procedures for the analysis of pollutants complies with procedures specified in 30 TAC Chapters 319.11-319.12.

Date: 01/31/2007 (589371) CN600736946
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: 04/26/2007 (538599) CN600736946
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions 2.d. PERMIT
Description: Failure to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation which has the reasonable likelihood of adversely affecting human health or the environment.

Date: 08/31/2007 (632248) CN600736946

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: 04/29/2008 (646290) CN600736946
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 30, SubChapter J 30.350(j)
Other Requirements; No. 1, Pg. 23 PERMIT
Description: Failure to operate the wastewater treatment plant (WWTP) a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher.

Date: 01/31/2009 (756364) CN600736946
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 CN600736946
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 (836320) CN600736946
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 (904069) CN600736946
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: 09/30/2010 (883417) CN600736946
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: 11/30/2010 (898206) CN600736946
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: 12/31/2010 (904070) CN600736946
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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	
VICTORIA COUNTY WATER	**§**	**TEXAS COMMISSION ON**
CONTROL AND IMPROVEMENT	**§**	
DISTRICT NO. 1	**§**	
RN101516714	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0526-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 Victoria County Water Control and Improvement District No. 1 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a municipal wastewater treatment facility located at 279 Halk Road, northwest of and adjacent to the Missouri Pacific Railroad right-of-way,

approximately 3,000 feet northeast along the Missouri Pacific Railroad from its intersection with State Highway 185 in Bloomington, Victoria 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 March 10, 2011, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports:

Violation Month	Flow (Limit 0.3 million gallons per day)	TSS Daily Avg. Conc. (Limit 15 mg/L)	TSS Daily Avg. Loading (Limit 38 lbs/day)	TSS Single Grab Conc. (Limit 60 mg/L)	NH3-N Daily Avg. Loading (Limit 7.5 lbs/day)	CBOD Daily Avg. Conc. (Limit 10 mg/L)	CBOD Daily Avg. Loading (Limit 25 lbs/day)
February 2010	c	69.5	244.3	246	c	13.5	35.7
March 2010	c	18.4	c	c	c	c	c
May 2010	c	16.2	c	c	c	c	c
September 2010	0.9	c	c	c	10	c	c
November 2010	c	38.6	56.1	64	c	c	c
December 2010	c	34.5	54.7	c	c	c	c

TSS = total suspended solids; c=compliant; Avg. = Average; lbs/day = pounds per day; Conc.= concentration; NH3-N = ammonia nitrogen; mg/L = milligrams per liter; CBOD= carbonaceous biochemical oxygen demand

4. The Respondent received notice of the violations on March 30, 2011.

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 maintain compliance with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010513002, Effluent Limitations and Monitoring Requirements No. 1.

3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Eight Thousand Three Hundred Sixty Dollars ($8,360) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Eight Thousand Three Hundred Sixty Dollar ($8,360) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Eight Thousand Three Hundred Sixty Dollars ($8,360) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Victoria County Water Control and Improvement District No. 1, Docket No. 2011-0526-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 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010513002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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.

RECEIVED 05/24/2011 08:08 TCEQ ENFORCEMENT 3618971000 Fax:512-239-2550 VCWCID1 May 24 2011 07:51am P002/002

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

6/30/2011
Date

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

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

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

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

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

Elroy C. Alex Jr.
Signature

5/12/11
Date

Elroy C. Alex Jr.
Name (Printed or typed)

5/12/11
Title

Authorized Representative of
Victoria County Water Control and Improvement District No. 1

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