

Executive Summary – Enforcement Matter – Case No. 41400
Fort Bend County Municipal Utility District No. 130
RN102342391
Docket No. 2011-0494-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Fort Bend County MUD 130 WWTP, located approximately 700 feet southwest of Buffalo Bayou and 10,200 feet southeast of the intersection of Interstate Highway 10 and Farm-to-Market Road 1463, Fort Bend County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 22, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$14,840

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$14,840

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

Executive Summary – Enforcement Matter – Case No. 41400
Fort Bend County Municipal Utility District No. 130
RN102342391
Docket No. 2011-0494-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 1, 2011
Date(s) of NOE(s): March 16, 2011

Violation Information

Failed to comply with permitted effluent limits for 5-day carbonaceous biochemical oxygen demand, ammonia nitrogen, dissolved oxygen, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days, complete an engineering assessment of the treatment capabilities of the existing wastewater treatment facility to evaluate the cause of and necessary corrective actions designed to maintain compliance with the permitted effluent limitations of TPDES Permit No. WQ0014011001. The assessment shall be prepared by a Texas registered professional engineer and shall include, at a minimum, the following:

- i. Hydraulic and organic design capacity, and current loading of the Facility;
- ii. The ability of the Facility to remove all pollutants to the level identified in the permit;
- iii. Possible alternatives that can be taken to reduce and control wasteloads entering the collection system; and
- iv. Based on the assessment, develop and begin implementing a plan and schedule for the completion of necessary corrective actions, not to exceed 300 days.

b. Within 45 days, submit written certification demonstrating compliance;

c. Within 90 days, and on a semi-annual basis thereafter, submit a report to the Commission, documenting the progress of the corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits; and

**Executive Summary – Enforcement Matter – Case No. 41400
Fort Bend County Municipal Utility District No. 130
RN102342391
Docket No. 2011-0494-MWD-E**

d. Within 435 days, submit written certification demonstrating compliance with the effluent limits of TPDES Permit No. WQ0014011001, 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: Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Daniel Smith, President, Board of Directors, Fort Bend County Municipal Utility District No. 130, c/o Allen, Boone, Humphries, Robinson, LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027

Respondent's Attorney: Alex Garcia, Allen, Boone, Humphries, Robinson, LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-Mar-2011	Screening	24-Mar-2011	EPA Due	
	PCW	24-Mar-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Fort Bend County Municipal Utility District No. 130
Reg. Ent. Ref. No.	RN102342391
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41400	No. of Violations	2
Docket No.	2011-0494-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		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** **\$7,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **112.0%** Enhancement **Subtotals 2, 3, & 7** **\$7,840**

Notes: Enhancement for 16 months of self-reported effluent violations, two NOV's for same/similar violations, one NOV for dissimilar 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 **\$1,436**
 Approx. Cost of Compliance **\$15,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$14,840**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$14,840**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$14,840**

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 **\$14,840**

Screening Date 24-Mar-2011

Docket No. 2011-0494-MWD-E

PCW

Respondent Fort Bend County Municipal Utility District No. 13

Policy Revision 2 (September 2002)

Case ID No. 41400

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102342391

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	18	90%
	Other written NOVs	1	2%
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) 112%

>> **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 16 months of self-reported effluent violations, two NOVs for same/similar violations, one NOV for dissimilar violations, and one Agreed Order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 112%

Screening Date 24-Mar-2011

Docket No. 2011-0494-MWD-E

PCW

Respondent Fort Bend County Municipal Utility District No. 130

Policy Revision 2 (September 2002)

Case ID No. 41400

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102342391

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014011001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits as documented during a record review conducted on March 1, 2011. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual		x			50%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH₃-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen ("DO") and total suspended solids ("TSS") were also considered. As a result of the discharge, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 31

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

Violation Base Penalty \$5,000

One monthly event is recommended for the month of December 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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,436

Violation Final Penalty Total \$10,600

This violation Final Assessed Penalty (adjusted for limits) \$10,600

Economic Benefit Worksheet

Respondent Fort Bend County Municipal Utility District No. 130
Case ID No. 41400
Reg. Ent. Reference No. RN102342391
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				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)	\$15,000	31-Jan-2010	31-Dec-2011	1.92	\$1,436	n/a	\$1,436

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. Final date is the anticipated 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

\$15,000

TOTAL

\$1,436

Screening Date 24-Mar-2011

Docket No. 2011-0494-MWD-E

PCW

Respondent Fort Bend County Municipal Utility District No. 130

Policy Revision 2 (September 2002)

Case ID No. 41400

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102342391

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0014011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6.

Violation Description Failed to comply with permitted effluent limits as documented during a record review conducted on March 1, 2011. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	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 5-day carbonaceous biochemical oxygen demand and NH₃-N to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. DO and TSS were also 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 that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 120

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

Violation Base Penalty \$2,000

Two 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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,240

This violation Final Assessed Penalty (adjusted for limits) \$4,240

Economic Benefit Worksheet

Respondent Fort Bend County Municipal Utility District No. 130
Case ID No. 41400
Reg. Ent. Reference No. RN102342391
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				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

See Economic Benefit for Violation No. 1

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

Respondent	Fort Bend County Municipal Utility District No. 130
ID Number(s)	WQ0014011001
Docket Number	2011-0494-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number:

1

EFFLUENT PARAMETER							
<i>Permit Limit</i>							
	CBOD ₅ Daily Avg. Conc. 10 mg/L	NH ₃ -N Daily Avg. Conc. 2 mg/L	NH ₃ -N Single Grab Conc. 15 mg/L	NH ₃ -N Daily Avg. Loading 5 lbs/day	DO Min. Conc. 6 mg/L	TSS Daily Avg. Conc. 15 mg/L	TSS Daily Avg. Loading 38 lbs/day
Month/Year							
January 2010	13.45	c	c	c	c	20.85	c
February 2010	c	c	c	c	5.10	c	c
March 2010	11.40	c	c	c	c	39.00	47.68
November 2010	c	5.08	25.20	7.66	c	c	c
December 2010	c	14.04	26.00	23.00	c	18.48	c

CBOD₅ = 5- day carbonaceous biochemical oxygen demand
 NH₃-N = ammonia nitrogen
 TSS = total suspended solids
 mg/L = milligrams per liter
 DO = dissolved oxygen

Conc. = concentration
 lbs/day = pounds per day
 Avg. = average
 c = compliant
 Min. = minimum

26	02/12/2008	(677203)
27	03/18/2008	(677204)
28	04/17/2008	(677205)
29	05/18/2008	(695857)
30	06/17/2008	(695858)
31	07/16/2008	(695859)
32	08/29/2008	(717439)
33	09/20/2008	(717440)
34	10/20/2008	(717441)
35	01/23/2009	(722353)
36	11/20/2008	(732794)
37	12/18/2008	(732795)
38	01/20/2009	(732796)
39	02/20/2009	(756038)
40	03/26/2009	(756039)
41	04/20/2009	(756040)
42	05/20/2009	(773018)
43	06/13/2009	(773019)
44	01/14/2010	(783500)
45	02/11/2010	(819213)
46	07/23/2009	(819214)
47	09/02/2009	(819215)
48	09/22/2009	(819216)
49	10/18/2009	(819217)
50	11/18/2009	(819218)
51	12/19/2009	(819219)
52	01/12/2010	(819220)
53	06/04/2010	(825099)
54	03/09/2010	(835983)
55	04/12/2010	(835984)
56	05/06/2010	(835985)
57	06/09/2010	(847840)
59	08/18/2010	(868850)
60	09/08/2010	(875718)
61	10/08/2010	(883275)
62	02/03/2011	(887296)
63	11/09/2010	(889685)
64	12/09/2010	(898057)
65	03/17/2011	(901248)
66	01/10/2011	(903950)

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

Date:	10/31/2006	(631017)	CN601652936
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:	11/30/2006	(631019)	CN601652936
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:	05/31/2007	(631012)	CN601652936
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	(631013)	CN601652936
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** (631015) CN601652936
 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** (631018) CN601652936
 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: **02/01/2008** (615392) CN601652936
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to ensure flow measurement accuracy.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.4(a)(7)
 Description: Failure to provide stairway access to the chlorine contact basin.

Date: **07/31/2008** (717439) CN601652936
 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** (732796) CN601652936
 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** (756038) CN601652936
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **02/28/2009** (756039) CN601652936
 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** (819220) CN601652936
 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: **01/13/2010** (783500) CN601652936
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 WQ0014011001 Special Condition #4 PERMIT
 Description: Failure to prevent the discharge of solids from the wastewater treatment plant.

Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) WQ0014011001-Monitoring & Reporting #5 PERMIT		
Description:	Failure to ensure flow measurement accuracy.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain compliance with the permitted effluent limits.		
Date:	01/31/2010 (819213)	CN601652936	
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 (835983)	CN601652936	
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 (835984)	CN601652936	
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 (898057)	CN601652936	
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 (903950)	CN601652936	
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:	02/01/2011 (887296)	CN601652936	
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) E.L.&M.R., pg. 2, No. 2 PERMIT		
Description:	Failure to maintain compliance with permit limits for total chlorine residual.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) E.L.&M.R., pg. 2, No. 1 PERMIT		
Description:	Failure to maintain compliance with permit limits for ammonia (NH3N).		

- 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
FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 130
RN102342391**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0494-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 Fort Bend County Municipal Utility District No. 130 (“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, represented by Alex Garcia of the law firm of Allen, Boone, Humphries, Robinson, LLP 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 wastewater treatment plant located approximately 700 feet southwest of Buffalo Bayou and 10,200 feet southeast of the intersection of

Interstate Highway 10 and Farm-to-Market Road 1463 in Fort Bend 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 1, 2010, TCEQ staff documented the following effluent values based on self-reported discharge monitoring reports ("DMRs"):

EFFLUENT PARAMETER							
Permit Limit							
	CBOD ₅ Daily Avg. Conc. 10 mg/L	NH ₃ -N Daily Avg. Conc. 2 mg/L	NH ₃ -N Single Grab Conc. 15 mg/L	NH ₃ -N Daily Avg. Loading 5 lbs/day	DO Min. Conc. 6 mg/L	TSS Daily Avg. Conc. 15 mg/L	TSS Daily Avg. Loading 38 lbs/day
Month/Year							
January 2010	13.45	c	c	c	c	20.85	c
February 2010	c	c	c	c	5.10	c	c
March 2010	11.40	c	c	c	c	39.00	47.68
November 2010	c	5.08	25.20	7.66	c	c	c
December 2010	c	14.04	26.00	23.00	c	18.48	c

CBOD₅ = 5- day carbonaceous biochemical oxygen demand
 NH₃-N = ammonia nitrogen
 TSS = total suspended solids
 mg/L = milligrams per liter
 DO = dissolved oxygen

Conc. = concentration
 lbs/day = pounds per day
 Avg. = average
 c = compliant
 Min. = minimum

4. The Respondent received notice of the violations on March 18, 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 comply with permitted effluent limits, 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. WQ0014011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
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 Fourteen Thousand Eight Hundred Forty Dollars (\$14,840) 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 Fourteen Thousand Eight Hundred Forty Dollar (\$14,840) 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 Fourteen Thousand Eight Hundred Forty Dollars (\$14,840) 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: Fort Bend County Municipal Utility District No. 130, Docket No. 2011-0494-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 under take the following technical requirements:
 - a. Within 30 days after the effective date of the Agreed Order, complete an engineering assessment of the treatment capabilities of the existing wastewater treatment facility to evaluate the cause of and necessary corrective actions designed to maintain compliance with the permitted effluent limitations of TPDES Permit No. WQ0014011001. The assessment shall be prepared by a Texas registered professional engineer and shall include, at a minimum, the following:
 - i. Hydraulic and organic design capacity, and current loading of the Facility;
 - ii. The ability of the Facility to remove all pollutants to the level identified in the permit;
 - iii. Possible alternatives that can be taken to reduce and control wasteloads entering the collection system; and

- iv. Based on the assessment, develop and begin implementing a plan and schedule for the completion of necessary corrective actions, not to exceed 300 days.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.e below;
- c. Within 90 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit a report to the Commission, documenting the progress of the corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits. The reports shall be submitted to the addresses in Ordering Provision No. 2.e below;
- d. Within 435 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014011001, 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, in accordance with Ordering Provision No. 2.e below;
- e. The certification of compliance required by Ordering Provision Nos. 2.b and 2.d shall be notarized by a State of Texas Notary Public and include the following certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance:

“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. 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

Date 7/31/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of Fort Bend County Municipal Utility District No. 130. I am authorized to agree to the attached Agreed Order on behalf of Fort Bend County Municipal Utility District No. 130, 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, Fort Bend County Municipal Utility District No. 130 waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Signature

Date 6/16/2011

Daniel Smith
Name (Printed or typed)
Authorized Representative of
Fort Bend County Municipal Utility District No. 130

President, Board of Directors
Title

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