

Executive Summary – Enforcement Matter – Case No. 41507
Upper Leon River Municipal Water District
RN104343181
Docket No. 2011-0601-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Upper Leon River Municipal Water District Wastewater Treatment Plant, located approximately 300 feet south of Farm-to-Market Road 2861, near intersection of Farm-to-Market Road 2861 and County Road 420A, and approximately 200 feet west of County Road 420A, Comanche County

Type of Operation:

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 22, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$4,960

Amount Deferred for Expedited Settlement: \$992

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$3,968

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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Upper Leon River Municipal Water District
RN104343181
Docket No. 2011-0601-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 7, 2011
Date(s) of NOE(s): March 16, 2011

Violation Information

1. Failed to comply with permitted effluent limitations for total suspended solids, dissolved oxygen and residual chlorine [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014544001 Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010 [30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0014544001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that on April 1, 2011, the Respondent submitted the annual sludge report for the monitoring period ending July 31, 2010.

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014544001, 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: Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A

Executive Summary – Enforcement Matter – Case No. 41507
Upper Leon River Municipal Water District
RN104343181
Docket No. 2011-0601-MWD-E

Respondent: Gary D. Lacy, General Manager, Upper Leon River Municipal Water District, 2550 Highway 2861, Comanche, Texas 76442

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-Mar-2011	Screening	13-Apr-2011	EPA Due	
	PCW	13-Apr-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Upper Leon River Municipal Water District
Reg. Ent. Ref. No.	RN104343181
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	41507	Order Type	1660
Docket No.	2011-0601-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Marty Hott
Multi-Media		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	\$3,100
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	60.0% Enhancement	Subtotals 2, 3, & 7	\$1,860
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Notes: Enhancement for 11 months of self-reported effluent violations and one NOV with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$782
 Approx. Cost of Compliance: \$10,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,960
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$4,960
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,960
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DEFERRAL	20.0% Reduction	Adjustment	-\$992
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,968
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Screening Date 13-Apr-2011

Docket No. 2011-0601-MWD-E

PCW

Respondent Upper Leon River Municipal Water District

Policy Revision 2 (September 2002)

Case ID No. 41507

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104343181

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

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>)	12	60%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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%

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) 60%

>> 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 months of self-reported effluent violations and one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date 13-Apr-2011

Docket No. 2011-0601-MWD-E

PCW

Respondent Upper Leon River Municipal Water District

Policy Revision 2 (September 2002)

Case ID No. 41507

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104343181

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

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. WQ0014544001 Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on March 7, 2011 and shown in the 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 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 3 122 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Three 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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$779

Violation Final Penalty Total \$4,800

This violation Final Assessed Penalty (adjusted for limits) \$4,800

Economic Benefit Worksheet

Respondent Upper Leon River Municipal Water District
Case ID No. 41507
Req. Ent. Reference No. RN104343181
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)	\$10,000	31-May-2010	21-Dec-2011	1.56	\$779	n/a	\$779

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and take necessary corrective action to maintain compliance with permitted effluent limits. 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

\$779

Screening Date 13-Apr-2011

Docket No. 2011-0601-MWD-E

PCW

Respondent Upper Leon River Municipal Water District

Policy Revision 2 (September 2002)

Case ID No. 41507

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104343181

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0014544001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010, as documented in a record review conducted on March 7, 2011.

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

70% or more of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

212 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$160

This violation Final Assessed Penalty (adjusted for limits) \$160

Economic Benefit Worksheet

Respondent Upper Leon River Municipal Water District
Case ID No. 41507
Req. Ent. Reference No. RN104343181
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	\$100	1-Sep-2010	1-Apr-2011	0.58	\$3	n/a	\$3
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 cost to submit the missing annual sludge report. Date required is the date the annual report was due. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

Upper Leon River Municipal Water District
 TPDES Permit No. WQ0014544001
 Docket No. 2011-0601-MWD-E
 Case No. 41507

EFFLUENT VIOLATION TABLE			
Months	Chlorine Residual Monthly Max. Conc.	DO Monthly Min. Conc.	TSS Daily Avg. Conc.
	Limit = 4 mg/L	Limit = 4 mg/L	Limit = 15 mg/L
May 2010	c	3.9	c
September 2010	6.3	c	c
October 2010	c	c	20.75
November 2010	6.1	3.5	16.20

Avg. = average

Max. = maximum

mg/L = milligrams per Liter

DO = dissolved oxygen

Min. = minimum

c = compliant

TSS = total suspended solids

Conc. = concentration

Compliance History

Customer/Respondent/Owner-Operator:	CN600635700	Upper Leon River Municipal Water District	Classification: AVERAGE	Rating: 2.46
Regulated Entity:	RN104343181	UPPER LEON RIVER MUNICIPAL WATER DISTRICT WWTP	Classification: AVERAGE	Site Rating: 1.48
ID Number(s):	WASTEWATER WASTEWATER	PERMIT EPA ID		WQ0014544001 TX0128813
Location:	Approximately 300 feet south of Farm-to-Market Road 2861, near the intersection of Farm-to-Market Road 2861 and County Road 420A, and approximately 200 feet west of County Road 420A, Comanche County, Texas			
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	April 13, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 13, 2006 to April 13, 2011			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Marty Hott Phone: (512) 239-2587

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.
N/A
- 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	05/08/06	(460953)
2	06/30/08	(696947)
3	06/30/08	(696948)
4	06/30/08	(696949)
5	06/30/08	(696950)
6	06/30/08	(696951)
7	06/30/08	(696952)
8	06/30/08	(696953)
9	06/30/08	(696954)
10	06/30/08	(696955)
11	06/30/08	(696956)
12	08/13/10	(844545)
13	07/22/10	(845441)
14	07/22/10	(845442)

15	07/22/10	(845443)
16	07/22/10	(845444)
17	07/22/10	(845445)
18	07/22/10	(845446)
19	07/22/10	(845447)
20	07/22/10	(845448)
21	07/22/10	(845449)
22	07/22/10	(845450)
23	07/22/10	(845451)
24	07/22/10	(845452)
25	05/31/10	(876100)
26	06/30/10	(876101)
27	08/23/10	(876102)
28	10/07/10	(883698)
29	10/25/10	(883699)
30	02/08/11	(894971)
31	11/15/10	(898462)
32	12/22/10	(898463)
33	03/17/11	(902103)
34	01/14/11	(904308)
35	02/14/11	(911191)

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

Date:	05/31/2009	(845445)	CN600635700
Self	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2009	(845446)	CN600635700
Self	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	(845447)	CN600635700
Self	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	(845448)	CN600635700
Self	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:	09/30/2009	(845449)	CN600635700
Self	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	(845450)	CN600635700
Self	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	(876100)	CN600635700
Self	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 08/13/2010 (844545) CN600635700
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)
Monitoring and Reporting Requirements PERMIT

Description: Failure to calibrate the secondary flow measuring device on an annual basis.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements PERMIT

Description: Failure to provide an annual certification of the RPBA.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Sludge Provisions PERMIT

Description: Failure to submit the Annual Sludge Report for 2008-2009.
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Permit Conditions PERMIT

Description: Failure to prevent an unauthorized discharge of wastewater.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Monitoring and Reporting Requirements PERMIT

Description: Failure to properly report an unauthorized discharge of wastewater.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.1
Monitoring and Reporting Requirements PERMIT

Description: Failure to submit DMRs by the 20th day of the following month.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations PERMIT

Description: Failure to maintain the permitted DO limitations of the effluent.
Date 09/30/2010 (883699) CN600635700
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 10/31/2010 (898462) CN600635700
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 (898463) CN600635700
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 02/28/2011 CN600635700
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
UPPER LEON RIVER MUNICIPAL
WATER DISTRICT
RN104343181**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0601-MWD-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Upper Leon River Municipal Water 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 300 feet south of Farm-to-Market Road 2861, near the intersection of Farm-to-Market Road 2861 and County Road 420A, and approximately 200 feet west of County Road 420A in Comanche 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. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 21, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Nine Hundred Sixty Dollars (\$4,960) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Nine Hundred Sixty-Eight Dollars (\$3,968) of the administrative penalty and Nine Hundred Ninety-Two Dollars (\$992) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on April 1, 2011, the Respondent submitted the annual sludge report for the monitoring period ending July 31, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply 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. WQ0014544001 Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, as documented during a record review conducted on March 7, 2011 and shown in the following table:

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
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/5/11

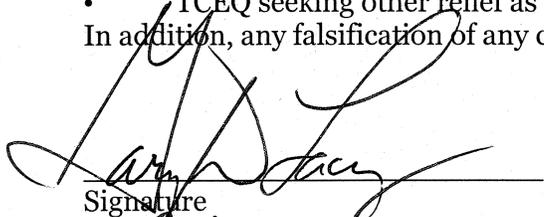
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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



Signature

21 June 2011

Date

Gary D. Lacy

Name (Printed or typed)
Authorized Representative of
Upper Leon River Municipal Water District

General Manager

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.