

**Executive Summary – Enforcement Matter – Case No. 42465
Hudspeth County Water Control and Improvement District No. 1
RN102181849
Docket No. 2011-1628-MWD-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Hudspeth County WCID No. 1, located north of and adjacent to the Union Pacific Right-of-Way, approximately 2.1 miles from its intersection with Ranch Road 1111, Hudspeth 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: January 20, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,500

Amount Deferred for Expedited Settlement: \$2,700

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$10,800

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. 42465
Hudspeth County Water Control and Improvement District No. 1
RN102181849
Docket No. 2011-1628-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 27, 2011
Date(s) of NOE(s): August 5, 2011

Violation Information

1. Failed to comply with permit effluent limits for 5-day biochemical oxygen demand, dissolved oxygen, and *Escherichia coli* (“*E. coli*”) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013858001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].
2. Failed to provide monitoring results at intervals specified in the permit. Specifically, the Respondent did not monitor the *E. coli* daily average and single grab concentrations and the ammonia nitrogen daily average, single grab concentrations, and daily average loading for the monitoring period ending November 30, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.1 and TPDES Permit No. WQ0013858001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By December 31, 2010, the Respondent began monitoring for *E. coli* and ammonia nitrogen as required by TPDES Permit No. WQ0013858001.

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013858001, 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

**Executive Summary – Enforcement Matter – Case No. 42465
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RN102181849
Docket No. 2011-1628-MWD-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Merrilee Hupp, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-4490; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Mike Doyal, Board President, Hudspeth County Water Control and
Improvement District No. 1, P.O. Box 188, Sierra Blanca, Texas 79851-0188

Macario Marquez, Jr., General Manager, Hudspeth County Water Control and
Improvement District No. 1, P.O. Box 188, Sierra Blanca, Texas 79851-0188

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Aug-2011	Screening	31-Aug-2011	EPA Due	
	PCW	1-Sep-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Hudspeth County Water Control and Improvement District No. 1
Reg. Ent. Ref. No.	RN102181849
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42465	No. of Violations	2
Docket No.	2011-1628-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merrilee Hupp
		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** **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **205.0%** Enhancement **Subtotals 2, 3, & 7** **\$10,250**

Notes: Enhancement for one order with denial language and 37 months of self-reported effluent violations.

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** **\$250**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$6,469
Approx. Cost of Compliance \$56,324
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$15,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-10.0%** **Adjustment** **-\$1,500**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in the penalty so that self-reported violations do not overly impact the penalty amount.

Final Penalty Amount **\$13,500**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$13,500**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,700**

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 **\$10,800**

Screening Date 31-Aug-2011

Docket No. 2011-1628-MWD-E

PCW

Respondent Hudspeth County Water Control and Improvemen

Policy Revision 2 (September 2002)

Case ID No. 42465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102181849

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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>)	37	185%
	Other written NOVs	0	0%
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	*Please Select	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) 205%

>> **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 one order with denial language and 37 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 205%

Screening Date 31-Aug-2011

Docket No. 2011-1628-MWD-E

PCW

Respondent Hudspeth County Water Control and Improvement District No.

Policy Revision 2 (September 2002)

Case ID No. 42465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102181849

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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. WQ0013858001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with permit effluent limits, as documented during a record review conducted on July 27, 2011 and shown in the attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes A simplified model was used to evaluate 5-day biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen concentrations and Escherichia coli ("E.coli") levels 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 4 303 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

Statutory Limit Test

Estimated EB Amount \$6,219

Violation Final Penalty Total \$10,980

This violation Final Assessed Penalty (adjusted for limits) \$10,980

Economic Benefit Worksheet

Respondent Hudspeth County Water Control and Improvement District No. 1
Case ID No. 42465
Reg. Ent. Reference No. RN102181849
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
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No commas or \$

Delayed Costs

Equipment	\$15,074	30-Jun-2010	30-Jun-2012	2.00	\$101	\$2,013	\$2,113
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)	\$41,000	30-Jun-2010	30-Jun-2012	2.00	\$4,106	n/a	\$4,106

Notes for DELAYED costs

Actual cost for aerator, pump, pump panel, the labor, and materials associated with the installation of the equipment and an electrical supply. Date required is the first noncompliant month and the 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

\$56,074

TOTAL

\$6,219

Screening Date 31-Aug-2011

Docket No. 2011-1628-MWD-E

PCW

Respondent Hudspeth County Water Control and Improvement District No. 1

Policy Revision 2 (September 2002)

Case ID No. 42465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102181849

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.1 and TPDES Permit No. WQ0013858001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to provide monitoring results at intervals specified in the permit, as documented during a record review conducted on July 27, 2011. Specifically, the Respondent did not monitor the E.coli daily average and single grab concentrations and ammonia nitrogen daily average, single grab concentrations, and daily average loading for the monitoring period ending November 30, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 30

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

Violation Base Penalty \$1,000

One monthly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent achieved compliance by December 31, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$250

Violation Final Penalty Total \$2,520

This violation Final Assessed Penalty (adjusted for limits) \$2,520

Economic Benefit Worksheet

Respondent Hudspeth County Water Control and Improvement District No. 1
Case ID No. 42465
Reg. Ent. Reference No. RN102181849
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$250	1-Nov-2010	30-Nov-2010	0.00	\$0	\$250	\$250
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost for the sampling bottles and laboratory fees associated with the monitoring of E. coli and ammonia nitrogen for one month. Date required is the first possible date of sampling for the month of November and final date is the last possible date of compliance in November.

Approx. Cost of Compliance

\$250

TOTAL

\$250

Hudspeth County Water Control and Improvement District No. 1
 RN102181849
 Docket No. 2011-1628-MWD-E

Effluent Violation Table

Monitoring Period Ending	Daily Average BOD ₅ Concentration (mg/L) Permit Limit= 30	Single Grab BOD ₅ Concentration (mg/L) Permit Limit= 100	Minimum DO Concentration (mg/L) Permit Limit= 4.0	Daily Average <i>E. coli</i> (CFU/100 ml) Permit Limit= 126
June 2010	33.64	c	3.62	N/A
July 2010	c	c	3.19	N/A
August 2010	c	c	3.1	N/A
September 2010	c	c	3.52	N/A
October 2010	31	c	3.91	N/A
November 2010	37.67	c	c	No sample
December 2010	c	c	c	250
January 2011	64.2	122	c	190.5
February 2011	55.42	c	c	c
March 2011	43.84	c	c	c
April 2011	55.7	c	c	c

BOD₅ = biochemical oxygen demand CFU = colony-forming units

c = compliant mg/L = milligrams per liter ml = milliliter

N/A = not applicable DO = dissolved oxygen *E. coli* = *Escherichia coli*

11	12/20/2007	(630110)
12	04/16/2007	(630111)
13	12/20/2007	(630112)
14	04/19/2007	(630113)
15	12/27/2007	(630114)
16	04/20/2007	(630115)
17	03/03/2008	(695535)
18	06/09/2008	(695536)
19	06/09/2008	(695537)
20	06/09/2008	(695538)
21	03/03/2008	(695539)
22	01/09/2009	(722750)
23	12/05/2008	(732453)
24	12/05/2008	(732454)
25	12/02/2008	(732455)
26	12/05/2008	(732456)
27	12/05/2008	(732457)
28	12/05/2008	(732458)
29	12/05/2008	(732459)
30	04/10/2009	(740872)
31	03/19/2009	(755762)
32	02/10/2010	(789539)
33	03/04/2010	(794288)
34	06/17/2009	(818412)
35	06/17/2009	(818413)
36	08/28/2009	(818414)
37	08/28/2009	(818415)
38	08/28/2009	(818416)
39	01/20/2010	(818417)
40	01/20/2010	(818418)
41	01/20/2010	(818419)
42	01/20/2010	(818420)
43	01/22/2010	(818421)
44	01/31/2010	(862150)
45	02/28/2010	(862151)
46	03/31/2010	(862152)
47	04/30/2010	(862153)
48	05/31/2010	(862154)
49	02/21/2011	(895190)
50	01/20/2011	(897957)
51	11/19/2010	(930053)
52	11/29/2010	(930054)
53	11/19/2010	(930055)
54	11/19/2010	(930056)
55	11/30/2010	(930057)
56	08/05/2011	(943533)
57	07/08/2011	(947120)
58	07/08/2011	(947121)
59	07/08/2011	(947122)

60 07/08/2011 (947123)
61 07/11/2011 (947124)
62 07/08/2011 (947125)

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

Date: 08/31/2006 (630107) CN600631972
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: 10/31/2006 (630111) CN600631972
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 (630113) CN600631972
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: 12/31/2006 (630115) CN600631972
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: 01/31/2007 (630100) CN600631972
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: 02/28/2007 (630101) CN600631972
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: 03/31/2007 (630102) CN600631972
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2007 (630103) CN600631972
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 (630105) CN600631972
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2007 (630110) CN600631972
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: 01/31/2008 (695535) CN600631972
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: 02/29/2008 (695536) CN600631972

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	03/31/2008 (695537)	CN600631972	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2008 (695538)	CN600631972	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2008 (732453)	CN600631972	
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	06/30/2008 (732454)	CN600631972	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2008 (732455)	CN600631972	
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	08/31/2008 (732456)	CN600631972	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2009 (818412)	CN600631972	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2009 (818420)	CN600631972	
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 (818421)	CN600631972	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2010 (862150)	CN600631972	
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 (862151)	CN600631972	
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 (862152)	CN600631972	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2010 (862153)	CN600631972	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2010 (930053)	CN600631972	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2010 (930054)	CN600631972	
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	08/31/2010 (930055)	CN600631972	
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 (930056)	CN600631972	
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 (930057)	CN600631972	
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 (897957)	CN600631972	
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 (947125)	CN600631972	
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	01/31/2011 (947120)	CN600631972	
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 (947121)	CN600631972	
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	03/31/2011 (947122)	CN600631972	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2011 (947123)	CN600631972	
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	05/31/2011 (947124)	CN600631972	
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
HUDSPETH COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 1
RN102181849**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-1628-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 Hudspeth 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located north of and adjacent to the Union Pacific Right-of-Way, approximately 2.1 miles from its intersection with Ranch Road 1111 in Hudspeth 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 August 10, 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 Thirteen Thousand Five Hundred Dollars (\$13,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Eight Hundred Dollars (\$10,800) of the administrative penalty and Two Thousand Seven Hundred Dollars (\$2,700) 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 by December 31, 2010, the Respondent began monitoring for *Escherichia coli* ("*E. coli*") and ammonia nitrogen as required by Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013858001.
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 permit effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0013858001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on July 27, 2011 and shown in the table below:

Monitoring Period Ending	Daily Average BOD ₅ Concentration (mg/L) Permit Limit= 30	Singe Grab BOD ₅ Concentration (mg/L) Permit Limit= 100	Minimum DO Concentration (mg/L) Permit Limit= 4.0	Daily Average <i>E. coli</i> (CFU/100 ml) Permit Limit= 126
June 2010	33.64	c	3.62	N/A
July 2010	c	c	3.19	N/A
August 2010	c	c	3.1	N/A
September 2010	c	c	3.52	N/A
October 2010	31	c	3.91	N/A
November 2010	37.67	c	c	No sample
December 2010	c	c	c	250
January 2011	64.2	122	c	190.5
February 2011	55.42	c	c	c
March 2011	43.84	c	c	c
April 2011	55.7	c	c	c

BOD₅ = biochemical oxygen demand

CFU = colony-forming units

c = compliant mg/L = milligrams per liter ml = milliliter N/A = non-applicable

DO= dissolved oxygen

- Failed to provide monitoring results at intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.1 and TPDES Permit No. WQ0013858001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on July 27, 2011. Specifically, the Respondent did not monitor the *E. coli* daily average and single grab concentrations and the ammonia nitrogen daily average, single grab concentrations, and daily average loading for the monitoring period ending November 30, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Hudspeth County Water Control and Improvement District No. 1, Docket No. 2011-1628-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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013858001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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:

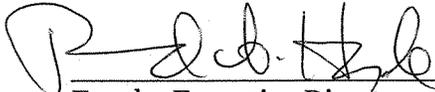
Water Section, Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

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

1/25/12

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

November 21, 2011

Date

Mike Doyal

Name (Printed or typed)
Authorized Representative of
Hudspeth County Water Control and Improvement District No. 1

Board President

Title

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