

Executive Summary – Enforcement Matter – Case No. 42784
Fort Hancock Water Control and Improvement District
RN101720787
Docket No. 2011-1943-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Fort Hancock WCID, located on the north side of and adjacent to State Highway 20, approximately one mile southeast of Fort Hancock, 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: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: March 30, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,770

Amount Deferred for Expedited Settlement: \$2,754

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$918

Total Due to General Revenue: \$10,098

Payment Plan: 11 payments of \$918 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Fort Hancock Water Control and Improvement District
RN101720787
Docket No. 2011-1943-MWD-E

Investigation Information

Complaint Date(s): August 31, 2011

Complaint Information: Alleged sewer odors from the Facility.

Date(s) of Investigation: September 14, 2011

Date(s) of NOE(s): September 27, 2011

Violation Information

1. Failed to employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0011173001 Other Requirements No. 1].
2. Failed to monitor parameters at the monitoring frequency specified in the permit for each parameter. Specifically, flow and pH have not been monitored since December 2010 and January 2011, respectively [30 TEX. ADMIN. CODE §§ 305.125(1) and (11)(A) and 319.5(b), and TPDES Permit No. WQ0011173001 Interim Effluent Limitations and Monitoring Requirements B].
3. Failed to comply with permitted effluent limitations for pH and 5-day biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011173001 Interim Effluent Limitations and Monitoring Requirements A].
4. Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the non-compliance. Specifically, the Respondent failed to report the effluent violations with deviations of 40% or greater for the following months: January 2011; February 2011; July 2011; and August 2011 [30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0011173001, Monitoring and Reporting Requirements No. 7.c.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

- i. Ensure a properly certified wastewater treatment facility operator holding a valid license or registration operates the Facility at least five days a week;

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ii. Begin monitoring the required parameters at the frequency specified in TPDES Permit No. WQ0011173001 Interim Effluent Limitations and Monitoring Requirements B; and

iii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the submittal of non-compliance notifications.

b. Within 45 days, submit written certification of compliance with Ordering Provisions a.i., a.ii., and a.iii.;

c. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011173001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current reports, demonstrating at least three consecutive months of compliance with all interim 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: JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Daniel Esparza, President, Fort Hancock Water Control and Improvement District, P.O. Box 65, Fort Hancock, Texas 79839

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	3-Oct-2011	Screening	14-Oct-2011	EPA Due	
	PCW	17-Oct-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	Fort Hancock Water Control and Improvement District		
Reg. Ent. Ref. No.	RN101720787		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42784	No. of Violations	4
Docket No.	2011-1943-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	JR Cao
		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	\$13,500
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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	2.0% Enhancement	Subtotals 2, 3, & 7	\$270
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Notes: Enhancement recommended for one NOV with a dissimilar violation.

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	\$33,150	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$46,375	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,770
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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	\$13,770
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,770
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,754
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$11,016
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Screening Date 14-Oct-2011

Docket No. 2011-1943-MWD-E

PCW

Respondent Fort Hancock Water Control and Improvement District

Policy Revision 2 (September 2002)

Case ID No. 42784

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720787

Media [Statute] Water Quality

Enf. Coordinator JR Cao

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>)	0	0%
	Other written NOVs	1	2%
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) 2%

>> 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 recommended for one NOV with a dissimilar violation.

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

Screening Date 14-Oct-2011

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PCW

Respondent Fort Hancock Water Control and Improvement District

Policy Revision 2 (September 2002)

Case ID No. 42784

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720787

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011173001 Other Requirements No. 1

Violation Description Failed to employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration, as documented in an investigation conducted on September 14, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended from the investigation date (September 14, 2011) to the screening date (October 14, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDP RP/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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25,775

Violation Final Penalty Total \$2,550

This violation Final Assessed Penalty (adjusted for limits) \$2,550

Economic Benefit Worksheet

Respondent Fort Hancock Water Control and Improvement District
Case ID No. 42784
Reg. Ent. Reference No. RN101720787
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)				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	\$35,000	31-Jan-2011	14-Oct-2011	0.70	\$1,227	\$24,548	\$25,775
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

Estimated salary of a licensed wastewater operator. The date required is the last known date a licensed operator operated the Facility. Final date is the screening date.

Approx. Cost of Compliance

\$35,000

TOTAL

\$25,775

Screening Date 14-Oct-2011

Docket No. 2011-1943-MWD-E

PCW

Respondent Fort Hancock Water Control and Improvement District

Policy Revision 2 (September 2002)

Case ID No. 42784

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720787

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (11)(A) and 319.5(b), and TPDES Permit No. WQ0011173001 Interim Effluent Limitations and Monitoring Requirements B

Violation Description

Failed to monitor parameters at the monitoring frequency specified in the permit for each parameter, as documented during an investigation on September 14, 2011. Specifically, flow and pH have not been monitored since December 2010 and January 2011, respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 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 as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

317 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$4,000

Four quarterly events are recommended from December 1, 2010 to the screening date (October 14, 2011).

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 \$6,714

Violation Final Penalty Total \$4,080

This violation Final Assessed Penalty (adjusted for limits) \$4,080

Economic Benefit Worksheet

Respondent Fort Hancock Water Control and Improvement District
Case ID No. 42784
Req. Ent. Reference No. RN101720787
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

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)	\$6,025	1-Dec-2010	14-Apr-2012	2.29	\$689	\$6,025	\$6,714

Notes for AVOIDED costs

Estimated cost to monitor the parameters at a frequency specified in the permit (\$25 a sample; pH, once a month for eleven months (\$275); flow, five times a week for eleven months (\$5,750). Date required is the date the Facility stopped monitoring flow. Final date is the estimated date of compliance.

Approx. Cost of Compliance

\$6,025

TOTAL

\$6,714

Screening Date 14-Oct-2011

Docket No. 2011-1943-MWD-E

PCW

Respondent Fort Hancock Water Control and Improvement District

Policy Revision 2 (September 2002)

Case ID No. 42784

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720787

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011173001 Interim Effluent Limitations and Monitoring Requirements A

Violation Description Failed to comply with permitted effluent limitations, as documented in an investigation conducted on September 14, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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 as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

244 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 \$537

Violation Final Penalty Total \$3,060

This violation Final Assessed Penalty (adjusted for limits) \$3,060

Economic Benefit Worksheet

Respondent Fort Hancock Water Control and Improvement District
Case ID No. 42784
Req. Ent. Reference No. RN101720787
Media Water Quality
Violation No. 3

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)	\$5,000	31-Dec-2010	13-Jul-2012	1.53	\$26	\$511	\$537
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

Estimated cost to evaluate the cause of the non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the estimated 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

\$5,000

TOTAL

\$537

Screening Date 14-Oct-2011

Docket No. 2011-1943-MWD-E

PCW

Respondent Fort Hancock Water Control and Improvement District

Policy Revision 2 (September 2002)

Case ID No. 42784

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720787

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (9)(A), and TPDES Permit No. WQ0011173001, Monitoring and Reporting Requirements No. 7.c

Violation Description

Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Regional Office and the Enforcement Division within 5 working days of becoming aware of the non-compliance, as documented during an investigation on September 14, 2011. Specifically, the Respondent failed to report the effluent violations with deviations of 40% or greater for the following months: January 2011; February 2011; July 2011; and August 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 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

121 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$4,000

Four single events are recommended (one of each month).

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 \$124

Violation Final Penalty Total \$4,080

This violation Final Assessed Penalty (adjusted for limits) \$4,080

Economic Benefit Worksheet

Respondent Fort Hancock Water Control and Improvement District
Case ID No. 42784
Req. Ent. Reference No. RN101720787
Media Water Quality
Violation No. 4

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	\$250	31-Jan-2011	14-May-2012	1.28	\$16	n/a	\$16
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 of updating procedures and training Facility personnel to ensure that non-compliance notifications are submitted as required. Date required is the first date of the non-compliance. Final date is the estimated 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]	\$100	31-Jan-2011	31-Aug-2011	1.50	\$7	\$100	\$107
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to report the effluent violations with deviations 40% or greater (\$25 x four reports).

Approx. Cost of Compliance

\$350

TOTAL

\$124

EFFLUENT VIOLATION TABLE

Fort Hancock Water Control and Improvement District

TPDES Permit No. WQ0011173001

Docket No. 2011-1943-MWD-E

Months	pH maximum	Biochemical Oxygen Demand (5-day) single grab concentration
	Limit = 9 SU	Limit = 100 mg/L
December 2010	13.10	c
January 2011	n/a	168.00
February 2011	n/a	198.00
March 2011	n/a	135.00
May 2011	n/a	131.00
June 2011	n/a	134.00
July 2011	n/a	300.00
August 2011	n/a	248.00

mg/L = milligrams per liter

c = compliant

SU = Standard Units

n/a = not applicable

Compliance History

Customer/Respondent/Owner-Operator: CN600629604 Fort Hancock Water Control and Improvement District Classification: AVERAGE Rating: 1.50
Regulated Entity: RN101720787 FORT HANCOCK WCID Classification: HIGH Site Rating: 0.00
ID Number(s): WASTEWATER PERMIT WQ0011173001
WASTEWATER EPA ID TX0129038
WASTEWATER LICENSING LICENSE WQ0011173001
Location: Located on the north side of and adjacent to State Highway 20, approximately one mile southeast of Fort Hancock, Hudspeth County, Texas
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: October 14, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 14, 2006 to October 14, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: JR Cao Phone: (512) 239-2543

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: 9/1/2011 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 02/23/2007 (532457)
2 03/27/2009 (740282)
3 08/31/2009 (767925)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/27/2009 (740282) CN600629604
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or

inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

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 HANCOCK WATER
CONTROL AND IMPROVEMENT
DISTRICT
RN101720787

§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-1943-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 Fort Hancock Water Control and Improvement 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 on the north side of and adjacent to State Highway 20, approximately one mile southeast of Fort Hancock in Hudspeth County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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 October 2, 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 Seven Hundred Seventy Dollars (\$13,770) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Hundred Eighteen Dollars (\$918) of the administrative penalty and Two Thousand Seven Hundred Fifty-Four Dollars (\$2,754) is deferred contingent upon the Respondent's timely and satisfactory compliance with all 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.

The remaining amount of Ten Thousand Ninety-Eight Dollars (\$10,098) of the administrative penalty shall be payable in 11 monthly payments of Nine Hundred Eighteen Dollars (\$918) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 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.
10. 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.
11. 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 employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011173001 Other

Requirements No. 1, as documented during an investigation conducted on September 14, 2011.

2. Failed to monitor parameters at the monitoring frequency specified in the permit for each parameter, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (11)(A) and 319.5(b), and TPDES Permit No. WQ0011173001 Interim Effluent Limitations and Monitoring Requirements B, as documented during an investigation conducted on September 14, 2011. Specifically, flow and pH have not been monitored since December 2010 and January 2011, respectively.
3. 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 TPDES Permit No. WQ0011173001 Interim Effluent Limitations and Monitoring Requirements A, as documented during an investigation conducted on September 14, 2011, and shown in the violation table below:

EFFLUENT VIOLATION TABLE		
Months	pH maximum	Biochemical Oxygen Demand (5-day) single grab concentration
	Limit = 9 SU	Limit = 100 mg/L
December 2010	13.10	c
January 2011	n/a	168.00
February 2011	n/a	198.00
March 2011	n/a	135.00
May 2011	n/a	131.00
June 2011	n/a	134.00
July 2011	n/a	300.00
August 2011	n/a	248.00

mg/L = milligrams per liter

SU = Standard Units

c = compliant

n/a = not applicable

4. Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the non-compliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0011173001,

Monitoring and Reporting Requirements No. 7.c, as documented during an investigation conducted on September 14, 2011. Specifically, the Respondent failed to report the effluent violations with deviations of 40% or greater for the following months: January 2011; February 2011; July 2011; and August 2011.

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: Fort Hancock Water Control and Improvement District, Docket No. 2011-1943-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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Ensure a properly certified wastewater treatment facility operator holding a valid license or registration operates the Facility at least five days a week, in accordance with 30 TEX. ADMIN. CODE § 30.350(d) and TPDES Permit No. WQ0011173001, Other Requirements No.1;
 - ii. Begin monitoring the required parameters at the frequency specified in TPDES Permit No. WQ0011173001 Interim Effluent Limitations and Monitoring Requirements B; and
 - iii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the submittal of non-compliance notifications, in accordance with TPDES Permit No. WQ0011173001, Monitoring and Reporting Requirements No. 7.c.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i, 2.a.ii, and 2.a.iii, in accordance with Ordering Provision No. 2.d below;
- c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011173001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current reports, demonstrating at least three consecutive months of compliance with all interim permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, in accordance with Ordering Provision No. 2.d below;
- d. The certifications required by Ordering Provision Nos. 2.b and 2.c 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

R. D. Hyde
For the Executive Director

4/20/12
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.

Daniel Esparza
Signature

1/26/2012
Date

Daniel Esparza
Name (Printed or typed)
Authorized Representative of
Fort Hancock Water Control and Improvement District

Resident
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.