

**Executive Summary – Enforcement Matter – Case No. 43229  
Matagorda Waste Disposal and Water Supply Corporation  
RN102286747  
Docket No. 2012-0034-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Matagorda WD & WSC, 30 Matagorda Street on the northwest corner of the intersection of Matagorda and Bernardo Streets, approximately 0.5 mile southeast of the intersection of Farm-to-Market Road 2031 and State Highway 60, Matagorda, Matagorda 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:** July 20, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$26,975

**Amount Deferred for Expedited Settlement:** \$5,395

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$3,580

**Total Due to General Revenue:** \$18,000

Payment Plan: 9 payments of \$2,000 each

**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. 43229**  
**Matagorda Waste Disposal and Water Supply Corporation**  
**RN102286747**  
**Docket No. 2012-0034-MWD-E**

***Investigation Information***

**Complaint Date(s):** August 9, 2011, September 1, 2011, October 10, 2011, and October 24, 2011

**Complaint Information:** Alleged that the water in the receiving stream had a bad odor and black color with floating brown solid material.

**Date(s) of Investigation:** August 16, 2011, September 1, 2011, October 10, 2011, October 24, 2011, and December 27, 2011

**Date(s) of NOE(s):** December 7, 2011

***Violation Information***

1. Failed to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities when flow reaches 75% of the permitted average daily or annual average flow for three consecutive months. Specifically, since the January 15, 2010 permit issuance, flows exceeded 75% of the permitted average daily flow limit of 0.07 million gallons per day in January through June 2011 [30 TEX. ADMIN. CODE § 305.126(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010913001, Operational Requirements No. 8.a.].

2. Failed to take all reasonable steps to minimize or prevent any discharge of sludge into the receiving stream. Specifically, sludge was observed on August 16, 2011, September 1, 2011, October 10, 2011, and October 24, 2011 from the outfall to approximately 150 feet downstream of the outfall, and the sludge was described on August 16, 2011 and September 1, 2011 as extending completely across the stream channel, which is approximately eight feet in width, and less than three feet in depth [30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0010913001, Permit Conditions No. 2.d.].

3. Failed to report any noncompliance which may endanger human health or safety or the environment. Specifically, the Respondent was aware of the presence of significant amounts of sludge in the receiving stream on August 16, 2011; however, a written report was not submitted to the TCEQ Houston Regional Office or the Enforcement Division [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010913001, Monitoring and Reporting Requirements No. 7.a.].

4. Failed to comply with permitted effluent limits, [TEX. WATER CODE § 26.121(a)(1) 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010913001, Effluent Limitations and Monitoring Requirements No. 1].

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**Docket No. 2012-0034-MWD-E**

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures at the Facility:

- a. On December 2, 2011, provided documentation demonstrating that engineering and financial planning for expansion and/or upgrading of the Facility has been initiated; and
- b. On January 3, 2012, submitted documentation of the initial sludge removal from the surface of the clarifier and the receiving waters.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that noncompliances which may endanger human health or safety or the environment are reported;
- b. Within 45 days, submit written certification of compliance with Ordering Provision No. 2.a;
- c. Within 90 days, submit an engineering assessment of the treatment capabilities of the Facility. The assessment shall be conducted by a Texas registered professional engineer and shall include, at a minimum, the following:
  - i. Hydraulic and organic design capacity, and current loading of the Facility;
  - ii. The ability of the Facility to remove all pollutants to the level identified in the permit, and prevent excess solids and sludge from being discharged;
  - iii. Possible alternatives that can be taken to reduce and control waste loads entering the Facility; and
  - iv. Recommendations resulting from the above assessment listed in a plan and schedule for implementation and completion by the Respondent, including operational and maintenance activities to prevent and remove accumulated sludge in the receiving stream to be implemented and completed to attain and maintain compliance with applicable rules and permit requirements.
- d. Within 120 days, begin implementation of the plan resulting from the engineering assessment;

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Docket No. 2012-0034-MWD-E**

e. Within 135 days, submit written certification of compliance with Ordering Provision Nos. 2.c. and 2.d.

f. Within 365 days, submit written certification demonstrating compliance with permitted effluent limits.

***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:** Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

**TCEQ SEP Coordinator:** N/A

**Respondent:** Gary W. Koeppen, Vice President, Matagorda Waste Disposal and Water Supply Corporation, 562 Fisher Street, Matagorda, Texas 77457

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|       |          |             |           |             |         |  |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 11-Jan-2012 | Screening | 11-Jan-2012 | EPA Due |  |
|       | PCW      | 11-Jan-2012 |           |             |         |  |

|  |   |
|--|---|
| <b>RESPONDENT/FACILITY INFORMATION</b> |   |
| Respondent                             | Matagorda Waste Disposal and Water Supply Corporation |
| Reg. Ent. Ref. No.                     | RN102286747   |
| Facility/Site Region                   | 12-Houston  |
| Major/Minor Source                     | Minor   |

|                         |                   |                       |                    |
|-------------------------|-------------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b> |                   |                       |                    |
| Enf./Case ID No.        | 43229             | No. of Violations     | 4                  |
| Docket No.              | 2012-0034-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**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for ten self-reported effluent violations, one NOV with same/similar violations, and one NOV with dissimilar violations.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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**

Screening Date 11-Jan-2012

Docket No. 2012-0034-MWD-E

PCW

Respondent Matagorda Waste Disposal and Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 43229

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102286747

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> )  | 11                | 55%     |
|                               | 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%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

**Adjustment Percentage (Subtotal 2)** 57%

#### >> 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 ten self-reported effluent violations, one NOV with same/similar violations, and one NOV with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 57%

Screening Date 11-Jan-2012

Docket No. 2012-0034-MWD-E

PCW

Respondent Matagorda Waste Disposal and Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 43229

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102286747

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.126(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010913001, Operational Requirements No. 8.a

Violation Description Failed to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities when flow reaches 75% of the permitted average daily or annual average flow for three consecutive months. Specifically, since the January 15, 2010 permit issuance, flows exceeded 75% of the permitted average daily flow limit of 0.07 million gallons per day in January through June 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       | X        |       |         |

>> 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 2 Number of violation days 108

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

Violation Base Penalty \$2,000

Two quarterly events are recommended from the investigation date, August 16, 2011, to the date of compliance, December 2, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$500

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

Notes The Respondent achieved compliance by December 2, 2011.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$165

Violation Final Penalty Total \$2,640

This violation Final Assessed Penalty (adjusted for limits) \$2,640

# Economic Benefit Worksheet

**Respondent** Matagorda Waste Disposal and Water Supply Corporation  
**Case ID No.** 43229  
**Reg. Ent. Reference No.** RN102286747  
**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 | \$3,500 | 31-Mar-2011 | 2-Dec-2011 | 0.67 | \$8 | \$157 | \$165 |
| 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 to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities. Date required is the last day of the three consecutive months when the flow was reported to be above 75% of the permitted daily average flow limit, requiring the initiation of engineering and financial planning; and final date is the date of compliance, when the initiation and financial planning was initiated.

### 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

\$3,500

**TOTAL**

\$165

Screening Date 11-Jan-2012

Docket No. 2012-0034-MWD-E

PCW

Respondent Matagorda Waste Disposal and Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 43229

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102286747

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(4), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010913001, Permit Conditions No. 2.d

Violation Description

Failed to take all reasonable steps to minimize or prevent any discharge of sludge into the receiving stream, as documented during the investigation beginning on August 16, 2011. Specifically, sludge was observed on August 16, 2011, September 1, 2011, October 10, 2011, and October 24, 2011 from the outfall to approximately 150 feet downstream of the outfall, and the sludge was described on August 16, 2011 and September 1, 2011 as extending completely across the stream channel, which is approximately eight feet in width, and less than three feet in depth.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       | X        |       |
| Potential |       |          |       |

Percent 25%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment has been 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 5

133 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | X |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$12,500

Five monthly events are recommended from the investigation date, August 16, 2011, to the screening date, January 11, 2012.

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 effort criteria for this violation.

Violation Subtotal \$12,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,076

Violation Final Penalty Total \$19,625

This violation Final Assessed Penalty (adjusted for limits) \$19,625

## Economic Benefit Worksheet

**Respondent** Matagorda Waste Disposal and Water Supply Corporation

**Case ID No.** 43229

**Reg. Ent. Reference No.** RN102286747

**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                | \$22,000 | 16-Aug-2011 | 31-Oct-2012 | 1.21 | \$89    | \$1,776 | \$1,865 |
| 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     | \$20,000 | 16-Aug-2011 | 31-Oct-2012 | 1.21 | \$1,211 | n/a     | \$1,211 |
| Permit Costs             |          |             |             | 0.00 | \$0     | n/a     | \$0     |
| Other (as needed)        |          |             |             | 0.00 | \$0     | n/a     | \$0     |

Notes for DELAYED costs

Estimated costs for removal of sludge from the clarifier and receiving waters, including labor and equipment. Date required is the investigation date and 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

\$42,000

**TOTAL**

\$3,076

Screening Date 11-Jan-2012

Docket No. 2012-0034-MWD-E

PCW

Respondent Matagorda Waste Disposal and Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 43229

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102286747

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. WQ0010913001, Monitoring and Reporting Requirements No. 7.a

Violation Description

Failed to report any noncompliance which may endanger human health or safety or the environment. Specifically, the Respondent was aware of the presence of significant amounts of sludge in the receiving stream on August 16, 2011; however, a written report was not submitted to the TCEQ Houston Regional Office or the Enforcement Division.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          |       |

Percent 0%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | Major | Moderate | Minor |
|               | x     |          |       |

Percent 10%

Matrix Notes

100% of the requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

128 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

|               | Before NOV | NOV to EDRP/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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$36

Violation Final Penalty Total \$1,570

This violation Final Assessed Penalty (adjusted for limits) \$1,570

# Economic Benefit Worksheet

**Respondent** Matagorda Waste Disposal and Water Supply Corporation  
**Case ID No.** 43229  
**Reg. Ent. Reference No.** RN102286747  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

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 | 21-Aug-2011 | 15-Jul-2012 | 0.90 | \$11 | n/a | \$11 |
| 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 update the Facility's operational guidance and conduct employee training to ensure that reporting requirements are met for noncompliances which may endanger human health or the environment. Date required is when the noncompliance notification was due, and the final date is the date compliance is expected to be achieved.

### 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)             | \$25 | 16-Aug-2011 | 21-Aug-2011 | 0.00 | \$0 | \$25 | \$25 |

Notes for AVOIDED costs

Estimated cost for the completion and submittal of a noncompliance notification. Date required is when the Respondent first became aware of the significant amounts of sludge during the investigation. The final date is the date the written report was due.

Approx. Cost of Compliance

\$275

**TOTAL**

\$36

Screening Date 11-Jan-2012

Docket No. 2012-0034-MWD-E

PCW

Respondent Matagorda Waste Disposal and Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 43229

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102286747

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 4

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010913001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit 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 this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

89 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | x |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$61,216

Violation Final Penalty Total \$3,140

This violation Final Assessed Penalty (adjusted for limits) \$3,140

## Economic Benefit Worksheet

**Respondent** Matagorda Waste Disposal and Water Supply Corporation  
**Case ID No.** 43229  
**Reg. Ent. Reference No.** RN102286747  
**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 | \$350,000 | 30-Sep-2010 | 30-Mar-2013 | 2.50 | \$2,915 | \$58,301 | \$61,216 |
| 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 for the modification of the existing Facility to achieve long-term compliance with effluent limitations. Date required is the first noncompliant month and 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

\$350,000

**TOTAL**

\$61,216

Matagorda Waste Disposal and Water Supply Corporation  
TPDES Permit No. WQ0010913001  
RN102286747  
Case No. 43229  
Docket No. 2012-0034-MWD-E

Effluent Limit Violation Table

| Month/Year     | Daily Average Flow<br>Permitted limit = 0.07 MGD | Total Suspended Solids<br>Daily Average Loading<br>Permitted Limit = 12 lbs/day |
|----------------|--|---|
| September 2010 | 0.111  | 18.73   |
| January 2011   | 0.071  | c   |
| February 2011  | 0.077  | c   |

MGD: million gallons per day  
c: compliant

lbs/day: pounds per day



# Compliance History

Customer/Respondent/Owner-Operator: CN600710743 Matagorda Waste Disposal & Water Supply Corporation Classification: AVERAGE Rating: 0.89

Regulated Entity: RN102286747 MATAGORDA WD & WSC Classification: AVERAGE Site Rating: 0.89

ID Number(s): WASTEWATER PERMIT WQ0010913001  
 WASTEWATER EPA ID TX0054038  
 WASTEWATER LICENSING LICENSE WQ0010913001

Location: 30 MATAGORDA ST. ON NW CORNER OF INTERSEC. OF MATAGORDA & BERNARDO STS., APPROX. 0.5 MI. SE OF INTERSEC. OF FM 2031 & STATE HWY. 60, MATAGORDA, MATAGORDA CO., TX.

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 11, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 11, 2007 to January 11, 2012

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

Name: Merrilee Hupp Phone: (512) 239-4490

## 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. If YES, 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  | 02/08/2007 | (548536) |
| 2  | 03/09/2007 | (581707) |
| 3  | 04/06/2007 | (581708) |
| 4  | 05/04/2007 | (581709) |
| 5  | 06/07/2007 | (581710) |
| 6  | 07/08/2007 | (581711) |
| 7  | 08/14/2007 | (608205) |
| 8  | 09/07/2007 | (608206) |
| 9  | 10/05/2007 | (608207) |
| 10 | 11/01/2007 | (621811) |
| 11 | 11/01/2007 | (621812) |
| 12 | 11/08/2007 | (621813) |
| 13 | 12/09/2007 | (621814) |
| 14 | 01/09/2008 | (621815) |
| 15 | 04/09/2008 | (640276) |
| 16 | 02/08/2008 | (673774) |
| 17 | 03/10/2008 | (673775) |

|    |            |          |
|----|------------|----------|
| 18 | 04/07/2008 | (673776) |
| 19 | 05/08/2008 | (692000) |
| 20 | 06/10/2008 | (692001) |
| 21 | 07/10/2008 | (692002) |
| 22 | 08/08/2008 | (713040) |
| 23 | 09/08/2008 | (713041) |
| 24 | 10/08/2008 | (713042) |
| 25 | 11/10/2008 | (713043) |
| 26 | 12/08/2008 | (729224) |
| 27 | 01/12/2009 | (729225) |
| 28 | 02/05/2009 | (752391) |
| 29 | 03/10/2009 | (752392) |
| 30 | 04/10/2009 | (752393) |
| 31 | 05/11/2009 | (770055) |
| 32 | 06/04/2009 | (770056) |
| 33 | 03/15/2010 | (832679) |
| 34 | 04/15/2010 | (832680) |
| 35 | 05/17/2010 | (832681) |
| 36 | 10/04/2010 | (844436) |
| 37 | 06/16/2010 | (846835) |
| 38 | 07/08/2010 | (861342) |
| 39 | 08/06/2010 | (867535) |
| 40 | 09/15/2010 | (874535) |
| 41 | 10/18/2010 | (882113) |
| 42 | 11/19/2010 | (884323) |
| 43 | 11/09/2010 | (888582) |
| 44 | 12/16/2010 | (896937) |
| 45 | 01/18/2011 | (902873) |
| 46 | 02/07/2011 | (909723) |
| 47 | 05/10/2011 | (912887) |
| 48 | 04/28/2011 | (913423) |
| 49 | 03/21/2011 | (916946) |
| 50 | 02/24/2010 | (926875) |
| 51 | 04/20/2011 | (926876) |
| 52 | 07/16/2009 | (926877) |
| 53 | 08/11/2010 | (926878) |
| 54 | 09/08/2009 | (926879) |
| 55 | 10/09/2009 | (926880) |
| 56 | 11/23/2010 | (926881) |
| 57 | 12/17/2009 | (926882) |
| 58 | 01/20/2010 | (926883) |
| 59 | 05/14/2011 | (938665) |
| 60 | 06/14/2011 | (946030) |
| 61 | 09/27/2011 | (951824) |
| 62 | 07/17/2011 | (953288) |
| 63 | 08/16/2011 | (959931) |
| 64 | 09/19/2011 | (965974) |
| 65 | 10/18/2011 | (972011) |
| 66 | 11/19/2011 | (978175) |

Date: 01/31/2007 (548536) CN600710743  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (581708) CN600710743  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (608205) CN600710743  
 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 (926882) CN600710743  
 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 (926883) CN600710743  
 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 (926875) CN600710743  
 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 (832679) CN600710743  
 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 (844436) CN600710743  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TPDES Permit No. WQ0010913001 PERMIT  
 Description: Failure to provide adequate safeguards to prevent unauthorized discharges from the wastewater treatment plant.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.4(a)(8)  
 Description: Failure to certify the reduced pressure zone (RPZ) backflow prevention device at least once per year.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 Description: Failure to submit the annual sludge report.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.6(b)(1)(C)  
 TPDES Permit No. WQ0010913001 PERMIT  
 Description: Failure to provide a scale for the chlorine bottle.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TPDES Permit No. Wq0010913001 PERMIT  
 Description: Failure to provide quarterly progress reports for flow improvements.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.126(a)  
 TPDES Permit No. WQ0010913001 PERMIT

Description: Failure to obtain necessary authorization from the commission to commence construction of the necessary additional treatment and/or collection facilities when the plant has reached 90% of the permitted daily average or annual average flow for three consecutive months

Date 09/30/2010 (882113) CN600710743  
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 11/19/2010 (884323) CN600710743  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date 01/31/2011 (909723) CN600710743  
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 (916946) CN600710743  
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  
MATAGORDA WASTE DISPOSAL  
AND WATER SUPPLY  
CORPORATION  
RN102286747**

§  
§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2012-0034-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 Matagorda Waste Disposal and Water Supply Corporation ("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 at 30 Matagorda Street on the northwest corner of the intersection of Matagorda and Bernardo Streets, approximately 0.5 mile southeast of the intersection of Farm-to-Market Road 2031 and State Highway 60 in Matagorda, Matagorda 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 December 12, 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 Twenty-Six Thousand Nine Hundred Seventy-Five Dollars (\$26,975) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Five Hundred Eighty Dollars (\$3,580) of the administrative penalty and Five Thousand Three Hundred Ninety-Five Dollars (\$5,395) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eighteen Thousand Dollars (\$18,000) of the administrative penalty shall be payable in nine monthly payments of Two Thousand Dollars (\$2,000) 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 the 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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. On December 2, 2011, provided documentation demonstrating that engineering and financial planning for expansion and/or upgrading of the Facility has been initiated; and
  - b. On January 3, 2012, submitted documentation of the initial sludge removal from the surface of the clarifier and the receiving waters.
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 initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities when flow reaches 75% of the permitted average daily or annual average flow for three consecutive months, in violation of 30 TEX. ADMIN. CODE § 305.126(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010913001, Operational Requirements No. 8.a, as documented during an investigation conducted on August 16, 2011. Specifically, since the January 15, 2010 permit issuance, flows exceeded 75% of the permitted average daily flow limit of 0.07 million gallons per day in January through June 2011.
2. Failed to take all reasonable steps to minimize or prevent any discharge of sludge into the receiving stream, in violation of 30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0010913001, Permit Conditions No. 2.d, as documented during an investigation beginning on August 16, 2011. Specifically, sludge was observed on August 16, 2011, September 1, 2011, October 10, 2011, and October 24, 2011 from the outfall to approximately 150 feet downstream of the outfall, and the sludge was described on August 16, 2011 and September 1, 2011 as extending completely across the stream channel, which is approximately eight feet in width, and less than three feet in depth.
3. Failed to report any noncompliance which may endanger human health or safety or the environment, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010913001, Monitoring and Reporting Requirements No. 7.a, as documented during an investigation conducted on August 16, 2011. Specifically, the Respondent was aware of the presence of significant amounts of sludge in the receiving stream on August 16, 2011; however, a written report was not submitted to the TCEQ Houston Regional Office or the Enforcement Division.
4. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010913001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on December 27, 2011 and shown in the table below:

| Month/Year     | Daily Average Flow<br>Permitted limit = 0.07 MGD | Total Suspended Solids<br>Daily Average Loading<br>Permitted Limit = 12 lbs/day |
|----------------|--|---|
| September 2010 | 0.111  | 18.73   |
| January 2011   | 0.071  | c   |
| February 2011  | 0.077  | c   |

MGD: million gallons per day  
c: compliant

lbs/day: pounds per day

### 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: Matagorda Waste Disposal and Water Supply Corporation, Docket No. 2012-0034-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, update the Facility's operational guidance and conduct employee training to ensure that noncompliances which may endanger human health or safety or the environment are reported in accordance with TPDES Permit No. WQ0010913001, Monitoring and Reporting Requirements No. 7.a;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.g below;
  - c. Within 90 days after the effective date of this Agreed Order, submit an engineering assessment of the treatment capabilities of the Facility. The assessment shall be conducted by a Texas registered professional engineer and shall include, at a minimum, the following:
    - i. hydraulic and organic design capacity, and current loading of the Facility;
    - ii. the ability of the Facility to remove all pollutants to the level identified in the permit, and prevent excess solids and sludge from being discharged;
    - iii. possible alternatives that can be taken to reduce and control wasteloads entering the Facility; and
    - iv. recommendations resulting from the above assessment listed in a plan and schedule for implementation and completion by the Respondent within 270

days after the effective date of this Agreed Order, including operational and maintenance activities to prevent and remove accumulated sludge in the receiving stream to be implemented and completed to attain and maintain compliance with applicable rules and permit requirements.

Submit the assessment to the addresses in Ordering Provision No. 2.g below.

- d. Within 120 days after the effective date of this Agreed Order, begin implementation of the plan resulting from engineering assessment;
- e. Within 135 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.c and 2.d, in accordance with Ordering Provision No. 2.g below;
- f. Within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010913001, 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; and
- g. The certification of compliance required by Ordering Provision Nos. 2.b and 2.e shall include detailed supporting documentation to demonstrate compliance, 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.

Matagorda Waste Disposal and Water Supply Corporation  
DOCKET NO. 2012-0034-MWD-E  
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### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

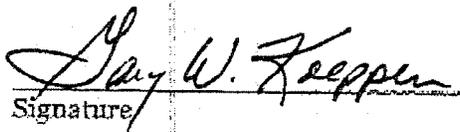
8/10/12  
Date

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

4-20-2012  
Date

GARY W. KOEPPEN  
Name (Printed or typed)  
Authorized Representative of  
Matagorda Waste Disposal and Water Supply Corporation

VICE-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.