

Executive Summary – Enforcement Matter – Case No. 43502
Brazoria County Municipal Utility District No. 21
RN102923653
Docket No. 2012-0317-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Brazoria County MUD 21 WWTP, located at 13717 State Highway 6, approximately two miles southeast of the intersection of State Highway 6 and Farm-to-Market Road 521, Brazoria County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 15, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,290

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$17,290

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 43502
Brazoria County Municipal Utility District No. 21
RN102923653
Docket No. 2012-0317-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: December 16, 2011
Date(s) of NOE(s): January 11, 2012

Violation Information

Failed to comply with permitted effluent limits for 5-day biochemical oxygen demand and ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014222001, Interim I Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014222001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Dwayne Sparks, President, Brazoria County Municipal Utility District No. 21, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 16-Jan-2012 | Screening | 1-Feb-2012 | EPA Due | |
| | PCW | 1-Feb-2012 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Brazoria County Municipal Utility District No. 21 |
| Reg. Ent. Ref. No. | RN102923653 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | | |
|--------------------------------|-----------------|------------------------------|--------------------|----------|
| CASE INFORMATION | | No. of Violations | 1 | |
| Enf./Case ID No. | 43502 | Order Type | Findings | |
| Docket No. | 2012-0317-MWD-E | Government/Non-Profit | Yes | |
| Media Program(s) | Water Quality | Enf. Coordinator | Heather Brister | |
| Multi-Media | | EC's Team | Enforcement Team 1 | |
| Admin. Penalty \$ Limit | Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

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 10 months of self-reported effluent violations, one NOV for same/similar violations, one NOV for dissimilar violations, and one order without denial of liability.

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

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 1-Feb-2012

Docket No. 2012-0317-MWD-E

PCW

Respondent Brazoria County Municipal Utility District No. 21

Policy Revision 2 (September 2002)

Case ID No. 43502

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102923653

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

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

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 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 | 1 | 25% |
| 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) 82%

>> **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 10 months of self-reported effluent violations, one NOV for same/similar violations, one NOV for dissimilar violations, and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 1-Feb-2012

Docket No. 2012-0317-MWD-E

PCW

Respondent Brazoria County Municipal Utility District No. 21

Policy Revision 2 (September 2002)

Case ID No. 43502

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102923653

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014222001, Interim 1 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on December 16, 2011. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes

A simplified model was used to evaluate 5-day biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of the discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 62

| | | |
|-------------------------|--------------|---|
| 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 for the quarters containing the months of December 2010 and August 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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,377

Violation Final Penalty Total \$3,640

This violation Final Assessed Penalty (adjusted for limits) \$3,640

Economic Benefit Worksheet

Respondent Brazoria County Municipal Utility District No. 21
Case ID No. 43502
Reg. Ent. Reference No. RN102923653
Media Water Quality
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|---------|-----|---------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$15,000 | 31-Dec-2010 | 31-Oct-2012 | 1.84 | \$1,377 | n/a | \$1,377 |

Notes for DELAYED costs

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$1,377



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 16-Jan-2012 | Screening | 1-Feb-2012 | EPA Due | |
| | PCW | 1-Feb-2012 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|---|---------------------------|-------|
| Respondent | Brazoria County Municipal Utility District No. 21 | | |
| Reg. Ent. Ref. No. | RN102923653 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 43502 | No. of Violations | 1 |
| Docket No. | 2012-0317-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Heather Brister |
| | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

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 10 months of self-reported effluent violations, one NOV for same/similar violations, one NOV for dissimilar violations, and one order without denial of liability.

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

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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 1-Feb-2012

Docket No. 2012-0317-MWD-E

PCW

Respondent Brazoria County Municipal Utility District No. 21

Policy Revision 3 (September 2011)

Case ID No. 43502

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102923653

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

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

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 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 | 1 | 25% |
| 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) 82%

>> **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 10 months of self-reported effluent violations, one NOV for same/similar violations, one NOV for dissimilar violations, and one order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 82%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 82%

Screening Date 1-Feb-2012

Docket No. 2012-0317-MWD-E

PCW

Respondent Brazoria County Municipal Utility District No. 21

Policy Revision 3 (September 2011)

Case ID No. 43502

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102923653

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014222001, Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on December 16, 2011. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

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

Percent 30.0%

>> Programmatic Matrix

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

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of the discharge, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

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 \$7,500

One monthly event is recommended for the month of September 2011.

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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$13,650

This violation Final Assessed Penalty (adjusted for limits) \$13,650

Economic Benefit Worksheet

Respondent Brazoria County Municipal Utility District No. 21
Case ID No. 43502
Req. Ent. Reference No. RN102923653
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

See Economic Benefit No. 1 on the accompanying Penalty Calculation Worksheet.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Effluent Limit Violation Table

Respondent: Brazoria County Municipal Utility District No. 21

ID Number(s): TPDES Permit No. WQ0014222001

Docket Number: 2012-0317-MWD-E

Enf. Coordinator: Heather Brister

Corresponds to Violation Numbers: 1

| EFFLUENT PARAMETER | | | | |
|---------------------------|---|---|--|--|
| Permit Limit | | | | |
| | *5-day Biochemical Oxygen Demand Daily Average Concentration 10 mg/L | **Ammonia Nitrogen Daily Average Concentration 3 mg/L | **Ammonia Nitrogen Daily Average Loading 6.3 lbs/day | **Ammonia Nitrogen Single Grab Concentration 15 mg/L |
| Month/Year | | | | |
| December-2010 | 11.35 | N/A | N/A | N/A |
| August-2011 | N/A | 9.4 | 13.98 | N/A |
| September-2011 | N/A | 16.4 | 24.69 | 21.30 |

mg/L = Milligrams per Liter

lbs/day = Pounds per Day

N/A = Not Applicable

* Permit Issued July 11, 2008 Interim I Permit Limits

** Permit Issued July 6, 2011 Interim I Permit Limits

Compliance History Report

Customer/Respondent/Owner-Operator: CN600736367 Brazoria County Municipal Utility District 21 Classification: AVERAGE Rating: 2.93

Regulated Entity: RN102923653 BRAZORIA COUNTY MUD 21 WWTP Classification: AVERAGE Site Rating: 1.43

ID Number(s): WASTEWATER EPA ID TX0123633
WASTEWATER PERMIT WQ0014222001

Location: Located at 13717 State Highway 6, approximately two miles southeast of the intersection of State Highway 6 and Farm-to-Market Road 521 in Brazoria County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 31, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 31, 2007 to January 31, 2012

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

Name: Heather Brister Phone: (254) 761-3034

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.
- Effective Date: **02/05/2011** ADMINORDER 2010-1176-MWD-E
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Interim I Eff Lim and Mon Req PERMIT
- Description: Failure to comply with permitted effluent limitations, as documented during a record review conducted on May 25, 2010.
- 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 | 02/17/2007 | (632752) |
| 2 | 03/14/2007 | (632753) |
| 3 | 04/15/2007 | (632754) |
| 4 | 05/16/2007 | (632755) |
| 5 | 06/13/2007 | (632756) |
| 6 | 07/14/2007 | (632757) |
| 7 | 08/16/2007 | (632758) |
| 8 | 09/14/2007 | (632759) |
| 9 | 10/16/2007 | (632760) |
| 10 | 11/13/2007 | (632762) |
| 11 | 12/18/2007 | (632764) |
| 12 | 01/17/2008 | (632766) |
| 13 | 02/20/2008 | (677612) |
| 14 | 03/18/2008 | (677613) |
| 15 | 04/17/2008 | (677614) |
| 16 | 08/19/2008 | (688734) |
| 17 | 05/18/2008 | (696390) |
| 18 | 06/17/2008 | (696391) |
| 19 | 07/15/2008 | (696392) |
| 20 | 08/28/2008 | (718049) |
| 21 | 09/20/2008 | (718050) |
| 22 | 10/20/2008 | (718051) |
| 23 | 11/20/2008 | (733346) |
| 24 | 12/18/2008 | (733347) |
| 25 | 01/19/2009 | (733348) |
| 26 | 02/20/2009 | (756491) |
| 27 | 03/21/2009 | (756492) |

28 04/20/2009 (756493)
 29 05/20/2009 (773411)
 30 06/13/2009 (773412)
 31 02/20/2010 (820499)
 32 07/23/2009 (820500)
 33 08/30/2009 (820501)
 34 09/17/2009 (820502)
 35 10/18/2009 (820503)
 36 11/18/2009 (820504)
 37 12/19/2009 (820505)
 38 01/18/2010 (820506)
 39 07/01/2010 (824653)
 40 03/19/2010 (836445)
 41 04/14/2010 (836446)
 42 05/16/2010 (836447)
 43 06/12/2010 (847970)
 44 11/01/2010 (858032)
 45 07/17/2010 (862406)
 46 08/29/2010 (869027)
 47 09/17/2010 (875871)
 48 10/17/2010 (883467)
 49 11/13/2010 (889848)
 50 12/18/2010 (898248)
 51 01/16/2011 (904106)
 52 02/17/2011 (910982)
 53 04/15/2011 (912178)
 54 03/19/2011 (918265)
 55 04/17/2011 (930914)
 56 05/18/2011 (939983)
 57 06/16/2011 (947385)
 58 07/19/2011 (954639)
 59 11/18/2011 (956190)
 60 09/01/2011 (961224)
 61 09/20/2011 (967328)
 62 10/20/2011 (973276)
 63 01/12/2012 (975100)
 64 11/20/2011 (979404)

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

Date: **07/31/2008** (718049) CN600736367
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2009** (756493) CN600736367
 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** (820505) CN600736367
 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** (820506) CN600736367
 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** (820499) CN600736367
 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** (836445) CN600736367
 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: 11/01/2010 (858032) CN600736367
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ0014222001 PERMIT
 Description: Failure to submit Noncompliance Notification to the Region 12 Office. No Noncompliance Notification Reports were sent to the Region 12 office for the permit effluent violations that occurred in the months of November 2009, December 2009, January 2010, and February 2010. TCEQ Permit No 0014222-001, Monitoring and Reporting Requirements No 7. states "...any effluent violation which deviates from the permitted effluent limitations by more than 40% shall be reported by the permittee in writing..."

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ0014222-001 PERMIT
 Description: Failure to submit Quarterly Reports required by TPDES Permit No. 0014222-001 Other Requirements No. 8.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 317 317.4(d)(6)
 WQ0014222001 PERMIT
 Description: Failure to construct the clarifier to the design criteria and the dimensions specified in the permit application.

Date: **12/31/2010** (904106) CN600736367
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date **08/31/2011** (967328) CN600736367
 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 **09/30/2011** (973276) CN600736367
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date **10/31/2011** (979404) CN600736367
 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 11/18/2011 (956190) CN600736367
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014222-001 PERMIT

Description: Failed to maintain compliance with the permitted effluent limits. Specifically, during the record review period of September 2010 to September 2011, 3 violations of the permitted limit of 10 mg/L for biochemical oxygen demand concentration, 3 mg/L for ammonia-nitrogen concentration, and 6.3 lbs./day for ammonia-nitrogen loading were noted. See the attached table. Compliance with the permitted effluent limits must be maintained.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014222-001 PERMIT

Description: Failed to prevent the discharge of solid debris, from the wastewater treatment plant. Specifically, several pieces of wastewater debris were noted on the bank of the retention pond. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014222-001 PERMIT

Description: Failed to maintain compliance with the permitted effluent limits. Specifically, the grab sample collected during the investigation was not compliant with the single grab limit of 15 mg/L. The result of the ammonia nitrogen analysis was 15.7 mg/L. Compliance with the permitted effluent limits must be maintained.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failed to provide a supernatant pump in the digester which meets the minimum requirements of the Design Criteris for Wastewater Systems. The Operator stated that the digester is not decanted because the decant pump is 1.5" diameter pipe and is severely undersized. The Design Criteria for Sewerage Systems 30 TAC 317.5(a)(3) states that "The sludge piping within the digester including the sludge drain line shall be a minimum of 4 inches in diameter. Appropriate facilities for transfer of supern

- 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 | § | BEFORE THE |
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | TEXAS COMMISSION ON |
| BRAZORIA COUNTY MUNICIPAL | § | |
| UTILITY DISTRICT NO. 21 | § | |
| RN102923653 | § | ENVIRONMENTAL QUALITY |

AGREED ORDER
DOCKET NO. 2012-0317-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Brazoria County Municipal Utility District No. 21 (“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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 13717 State Highway 6, approximately two miles southeast of the intersection of State Highway 6 and Farm-to-Market Road 521 in Brazoria County, Texas (the “Facility”).

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on December 16, 2011, TCEQ staff documented the following effluent values based on self-reported discharge monitoring reports ("DMRs"):

| EFFLUENT PARAMETER | | | | |
|---------------------------|---|---|--|--|
| Permit Limit | | | | |
| | *5-day Biochemical Oxygen Demand Daily Average Concentration 10 mg/L | **Ammonia Nitrogen Daily Average Concentration 3 mg/L | **Ammonia Nitrogen Daily Average Loading 6.3 lbs/day | **Ammonia Nitrogen Single Grab Concentration 15 mg/L |
| Month/Year | | | | |
| December-2010 | 11.35 | N/A | N/A | N/A |
| August-2011 | N/A | 9.4 | 13.98 | N/A |
| September-2011 | N/A | 16.4 | 24.69 | 21.30 |

mg/L = Milligrams per Liter
 lbs/day = Pounds per Day
 N/A = Not Applicable

* Permit Issued July 11, 2008 Interim I Permit Limits
 ** Permit Issued July 6, 2011 Interim I Permit Limits

4. The Respondent received notice of the violations on January 13, 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014222001, Interim I Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Seventeen Thousand Two Hundred Ninety Dollars (\$17,290) is justified by the facts recited in this Agreed Order, and considered in

light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Seventeen Thousand Two Hundred Ninety Dollar (\$17,290) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Seventeen Thousand Two Hundred Ninety Dollars (\$17,290) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brazoria County Municipal Utility District No. 21, Docket No. 2012-0317-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. The Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014222001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ram Darcic Jr.
For the Executive Director

7/27/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Brazoria County Municipal Utility District No. 21. I am authorized to agree to the attached Agreed Order on behalf of Brazoria County Municipal Utility District No. 21, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Brazoria County Municipal Utility District No. 21 waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Dwayne Sparks
Signature

April 16, 2012
Date

DWAYNE SPARKS
Name (Printed or typed)
Authorized Representative of
Brazoria County Municipal Utility District No. 21

President
Title

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