

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 44500
Orange County Water Control and Improvement District No. 2
RN101614030
Docket No. 2012-1424-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 (PCW 2, violation 2).

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

the north side of Western Avenue in West Orange, from Adams Bayou west to Boston Avenue (from 1,000 feet to 2,400 feet east of Western Avenue/Dayton Street), Orange County

Type of Operation:

wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: January 2, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: \$83,000

Total Paid to General Revenue: \$2,325

Total Due to General Revenue: \$80,675

Payment Plan: 35 payments of \$2,305 each

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1); September 2011 (PCW 2)

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: May 18, 2012

Date(s) of NOV(s): See Compliance History – 25 related NOVs

Date(s) of NOE(s): June 13, 2012

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 44500
Orange County Water Control and Improvement District No. 2
RN101614030
Docket No. 2012-1424-MWD-E

Violation Information

1. Failed to comply with permitted effluent limits [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d); and TPDES Permit No. WQ0010240001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Submitted the discharge monitoring report (“DMR”) for the monitoring period ending January 31, 2012.

Technical Requirements:

1. Within 30 days, update the Facility’s operational guidance and conduct employee training to ensure that DMRs are submitted by the 20th of the following month.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 90 days, submit written certification to demonstrate compliance with the effluent limits of TPDES Permit No. WQ0010240001, 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.

Litigation Information

Date Petition(s) Filed: October 24, 2014
Date Answer Filed: N/A
Settlement Date: November 10, 2014

Contact Information

TCEQ Attorneys: Joel Cordero, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, (817) 588-5825
TCEQ Regional Contact: Ronald Hebert, Beaumont Regional Office, (409) 898-3838
Respondent Contact: Daniel Tatum, Superintendent, Orange County WCID No. 2, P.O. Box 278, Orange, Texas 77631.
Respondent’s Attorney: Emily Rogers, Bickerstaff Heath Delgado Acosta LLP, 3711 S. MoPac Expy., Building 1, Suite 300, Austin, Texas 78746.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Jun-2012	Screening	6-Jul-2012	EPA Due	5-Sep-2012
	PCW	27-Jun-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Orange County Water Control and Improvement District No. 2		
Reg. Ent. Ref. No.	RN101614030		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	44500	No. of Violations	1
Docket No.	2012-1424-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	\$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	167.0% Enhancement	Subtotals 2, 3, & 7	\$8,350
Notes	Enhancement for 22 months of self-reported effluent violations, three NOVs with same/similar violations, one NOV for dissimilar violations, and two orders with denial of liability.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	<input type="text" value="\$20,027"/>	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	<input type="text" value="\$200,000"/>		

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	Recommended reduction to prevent the double enhancement of the penalty for same/similar violations that were self-reported.	
	Final Penalty Amount	<input type="text" value="\$13,050"/>

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.	
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PAYABLE PENALTY

Screening Date 6-Jul-2012

Docket No. 2012-1424-MWD-E

PCW

Respondent Orange County Water Control and Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 44500

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614030

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>)	25	125%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 167%

>> 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 22 months of self-reported effluent violations, three NOVs with same/similar violations, one NOV for dissimilar violations, and two orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 167%

Screening Date 6-Jul-2012 **Docket No.** 2012-1424-MWD-E **PCW**
Respondent Orange County Water Control and Improvement District No. 2 *Policy Revision 2 (September 2002)*
Case ID No. 44500 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101614030
Media [Statute] Water Quality
Enf. Coordinator Heather Brister

Violation Number

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. WQ0010240001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on May 18, 2012. See attached table.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

A simplified model was used to evaluate 5-day biochemical oxygen demand, total zinc, and total copper to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids was also considered. 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

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Two quarterly events are recommended for the quarters containing the months of March, May, and July 2011.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark w th x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

PCW 1 EFFLUENT VIOLATION TABLE 2012-1424-MWD-E			
Permitted Effluent Limits	Monitoring Period End Date		
	March 2011	May 2011	July 2011
Total Cu. Daily Avg. Conc. 0.0087 mg/L	0.0145	0.0095	c
Total Cu. Daily Max. Conc. 0.018 mg/L	0.051	c	c
Total Cu. Daily Avg. Loading 0.089 lbs/day	0.096	c	c
Total Zinc Daily Avg. Conc. 0.076 mg/L	0.125	c	c
Total Zinc Daily Max. Conc. 0.16 mg/L	0.37	c	c
TSS Daily Max. Conc. 40 mg/L	c	c	58

c = compliant

Cu. = copper

Avg. = average

Conc. = concentration

mg/L = milligrams per liter

Max. = maximum

lbs/day = pounds per day

TSS = total suspended solids

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 2
Case ID No. 44500
Reg. Ent. Reference No. RN101614030
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				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)	\$200,000	31-Mar-2011	31-Mar-2013	2.00	\$20,027	n/a	\$20,027

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	\$200,000	TOTAL	\$20,027
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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	18-Jun-2012			
	PCW	2-Oct-2014	Screening	6-Jul-2012	EPA Due 5-Sep-2012

RESPONDENT/FACILITY INFORMATION

Respondent	Orange County Water Control and Improvement District No. 2			
Reg. Ent. Ref. No.	RN101614030			
Facility/Site Region	10-Beaumont	Major/Minor Source	Major	

CASE INFORMATION

Enf./Case ID No.	44500	No. of Violations	3
Docket No.	2012-1424-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
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	\$36,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	100.0%	Enhancement	Subtotals 2, 3, & 7	\$36,250	
Notes	Enhancement for 22 months of self-reported effluent violations, three NOV's with same/similar violations, one NOV for dissimilar violations, and two orders with denial of liability.				
Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.				
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$375	
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0	
Total EB Amounts	\$9	*Capped at the Total EB \$ Amount			
Approx. Cost of Compliance	\$275				

SUM OF SUBTOTALS 1-7	Final Subtotal	\$72,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-3.0%	Adjustment	-\$2,175
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended reduction to prevent the double enhancement of the penalty for same/similar violations that were self-reported.		
	Final Penalty Amount	\$69,950	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$69,950
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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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.		
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PAYABLE PENALTY	\$69,950
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Screening Date 6-Jul-2012 **Docket No.** 2012-1424-MWD-E
Respondent Orange County Water Control and Improvement I
Case ID No. 44500
Reg. Ent. Reference No. RN101614030
Media [Statute] Water Quality
Enf. Coordinator Heather Brister

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

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>)	25	125%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 167%

>> 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 22 months of self-reported effluent violations, three NOVs with same/similar violations, one NOV for dissimilar violations, and two orders with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 167%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 6-Jul-2012 **Docket No.** 2012-1424-MWD-E **PCW**
Respondent Orange County Water Control and Improvement District No. 2 *Policy Revision 3 (September 2011)*
Case ID No. 44500 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN101614030
Media [Statute] Water Quality
Enf. Coordinator Heather Brister

Violation Number

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. WQ0010240001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on May 18, 2012. See attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes
 A simplified model was used to evaluate 5-day biochemical oxygen demand ("BOD₅"), total zinc, and total copper to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of the discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

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

Good Faith Efforts to Comply

0.0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark w th x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

PCW 2 EFFLUENT VIOLATION TABLE 2012-1424-MWD-E Violation No. 1	
Permitted Effluent Limits	Monitoring Period End Date
	December 2011
BOD ₅ Daily Max. Conc. 25 mg/L	32
Total Cu. Daily Avg. Conc. 0.0087 mg/L	0.0254
Total Cu. Daily Max. Conc. 0.018 mg/L	0.077
Total Zinc Daily Avg. Conc. 0.076 mg/L	0.095
Total Zinc Daily Max. Conc. 0.16 mg/L	0.22
TSS Daily Avg. Conc. 15 mg/L	65
TSS Daily Max. Conc. 40 mg/L	546
TSS Daily Avg. Loading 153 lbs/day	193

BOD₅ = 5 day biochemical oxygen demand

Max. = maximum

Conc. = concentration

mg/L = milligrams per liter

Cu. = copper

Avg. = average

TSS = total suspended solids

lbs/day = pounds per day

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 2
Case ID No. 44500
Reg. Ent. Reference No. RN101614030
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				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 the Economic Benefit from 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

Screening Date	6-Jul-2012	Docket No.	2012-1424-MWD-E	PCW
Respondent	Orange County Water Control and Improvement District No. 2			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44500			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101614030			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="100.0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text" value="x"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0.0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

A simplified model was used to evaluate BOD₅, total zinc, and total copper to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of the discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

PCW 2 EFFLUENT VIOLATION TABLE 2012-1424-MWD-E Violation No. 2	
Permitted Effluent Limits	Monitoring Period End Date
	February 2012
BOD ₅ Daily Avg. Conc. 10 mg/L	37
BOD ₅ Daily Max. Conc. 25 mg/L	262
BOD ₅ Daily Avg. Loading 102 lbs/day	378
Total Cu. Daily Avg. Conc. 0.0087 mg/L	0.0097
TSS Daily Avg. Conc. 15 mg/L	110
TSS Daily Max. Conc. 40 mg/L	746
TSS Daily Avg. Loading 153 lbs/day	1104

BOD₅ = 5 day biochemical oxygen demand

Max. = maximum

Conc. = concentration

mg/L = milligrams per liter

Avg. = average

TSS = total suspended solids

lbs/day = pounds per day

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 2
Case ID No. 44500
Reg. Ent. Reference No. RN101614030
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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 the Economic Benefit from 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

TOTAL

Screening Date	6-Jul-2012	Docket No.	2012-1424-MWD-E	PCW
Respondent	Orange County Water Control and Improvement District No. 2			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44500			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101614030			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code §§ 305.125(1) and (17), and 319.7(d), and TPDES Permit No. WQ0010240001, Monitoring and Reporting Requirements No. 1

Violation Description
 Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on May 18, 2012. Specifically, the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2012, was not submitted by the 20th day of the following month.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0.0%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="15.0%"/>
Matrix Notes	At least 70% of the rule requirements were met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV		NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>	(mark with x)	

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 2
Case ID No. 44500
Reg. Ent. Reference No. RN101614030
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	20-Feb-2012	11-Oct-2012	0.64	\$8	n/a	\$8
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	20-Feb-2012	11-Oct-2012	0.64	\$1	n/a	\$1

Notes for DELAYED costs
 Estimated cost to update operational guidance and conduct employee training to ensure that DMRs and monitoring results for all parameters are submitted to the TCEQ by the 20th of the following month and to submit the DMR to the TCEQ. Date required is the date the DMR was due. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$275	TOTAL	\$9
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Compliance History Report

Customer/Respondent/O

wner-Operator:	CN600738751	Orange County Water Control and Improvement District 2	Classification: AVERAGE	Rating: 2.38
Regulated Entity:	RN101614030	WEST ORANGE PLANT	Classification: AVERAGE	Site Rating: 2.38
ID Number(s):		WASTEWATER	PERMIT	WQ0010240001
		WASTEWATER	EPA ID	TX0054810
		WASTEWATER LICENSING	LICENSE	WQ0010240001

Location: Located on the north side of Western Avenue in West Orange, from Adams Bayou west to Boston Avenue (from 1,000 feet to 2,400 feet east of Western Avenue/Dayton Street) in Orange County, Texas

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: July 6, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 06, 2007 to July 06, 2012

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

Nam 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: 05/22/2008 ADMINORDER 2007-1673-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EFFLUENT LIMITS PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 08/30/2010 ADMINORDER 2009-1727-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations and Monitoring PERMIT

Description: Failure to comply with permitted effluent limits.

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	3/30/2012	(1004159)	37	5/22/2009	(809991)
2	6/14/2012	(1007300)	38	6/23/2009	(809992)
3	4/23/2012	(1010727)	39	7/20/2009	(809993)
4	7/2/2012	(1013169)	40	8/21/2009	(809994)
5	10/8/2007	(594831)	41	9/17/2009	(809995)
6	11/7/2007	(599401)	42	10/22/2009	(809996)
7	7/20/2007	(603466)	43	11/20/2009	(809997)
8	8/14/2007	(603467)	44	12/23/2009	(809998)
9	2/5/2008	(613824)	45	12/4/2009	(809999)
10	1/24/2008	(614207)	46	7/8/2010	(826306)
11	12/7/2007	(621925)	47	3/23/2010	(832761)
12	10/19/2007	(621926)	48	4/22/2010	(832762)
13	11/9/2007	(621927)	49	5/17/2010	(832763)
14	1/2/2008	(621928)	50	6/21/2010	(846860)
15	10/22/2007	(621929)	51	7/22/2010	(861359)
16	2/19/2008	(673840)	52	8/18/2010	(867581)
17	3/17/2008	(692086)	53	9/22/2010	(874563)
18	4/17/2008	(692087)	54	1/13/2010	(896966)
19	5/19/2008	(692088)	55	11/22/2010	(896967)
20	4/18/2008	(692089)	56	12/20/2010	(896968)
21	5/13/2009	(705791)	57	12/20/2010	(902895)
22	6/20/2008	(713157)	58	4/1/2011	(908383)
23	8/15/2008	(713158)	59	2/22/2011	(909759)
24	2/11/2009	(725351)	60	5/19/2011	(927044)
25	10/3/2008	(729291)	61	4/18/2011	(927045)
26	10/23/2008	(729292)	62	5/19/2011	(946060)
27	12/9/2008	(729293)	63	7/20/2011	(946061)
28	12/22/2008	(729294)	64	7/20/2011	(953319)
29	4/17/2009	(742076)	65	11/10/2011	(957835)
30	2/23/2009	(752494)	66	8/22/2011	(959959)
31	3/16/2009	(752495)	67	9/21/2011	(966008)
32	2/3/2009	(752496)	68	10/28/2011	(972037)
33	10/2/2009	(761677)	69	1/3/2012	(984982)
34	4/30/2009	(770138)	70	1/9/2012	(991276)
35	1/28/2010	(786655)	71	7/20/2011	(991277)
36	2/22/2010	(809990)	72	3/26/2012	(995148)

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

Date: 7/31/2007	(603467)	CN600738751	
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: 9/30/2007	(621926)	CN600738751	
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: 11/30/2007	(621928)	CN600738751	
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: 12/31/2007	(621929)	CN600738751	
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: 1/31/2008	(673840)	CN600738751	
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: 2/5/2008	(613824)	CN600738751	
Self Report?	NO	Classification:	Minor
Citation:	M&RR, No. 3c PERMIT		
Description:	Failure by the permittee to maintain records of monitoring activities (time effluent pH and DO are collected and analyzed).		
Self Report?	NO	Classification:	Minor
Citation:	MR&R, No. 7c PERMIT		
Description:	Failure by the permittee to submit 40% noncompliance notifications in a timely manner to the Regional office.		
Self Report?	NO	Classification:	Moderate
Citation:	OT, No. 7 PERMIT		
Description:	Failure to report effluent metals noncompliances within 24 hours of becoming aware (Copper).		
Self Report?	NO	Classification:	Minor
Citation:	M&RR 3c PERMIT		
Description:	Failure to maintain records of monitoring activities. (partial pH and DO calibration records)		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure to provide hose b b vacuum breakers at potable water connections with in the wastewater treatment plant.		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (Uneven and gapping weir teeth)		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (Smith St. and South St. lift stations not secured)		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal.		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (Excessive grease in Crockett St. lift station)		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (WWTP fence barbed wire down)		
Date: 7/31/2008	(713158)	CN600738751	
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: 10/31/2008	(729293)	CN600738751	
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: 11/30/2008	(729294)	CN600738751	
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: 12/31/2008	(752496)	CN600738751	
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: 1/31/2009	(752494)	CN600738751	
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: 10/31/2009	(809997)	CN600738751	
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	(809999)	CN600738751	
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: 1/29/2010	(786655)	CN600738751	
Self Report?	NO	Classification:	Moderate
Citation:	EL&MR PERMIT		
Description:	Failure by OCWCID 2 to comply with self-monitored effluent limitations.		
Self Report?	NO	Classification:	Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by OCWCID 2 to ensure that all systems of collection, treatment, and disposal are properly operated and maintained: bar screenings not adequately managed.		
Date: 1/31/2010	(809990)	CN600738751	
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: 8/31/2010	(874563)	CN600738751	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 10/31/2010	(896967)	CN600738751	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 11/30/2010	(896968)	CN600738751	
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: 3/31/2011	(927045)	CN600738751	
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: 5/31/2011	(946061)	CN600738751	
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: 7/31/2011	(959959)	CN600738751	
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: 11/10/2011	(957835)	CN600738751	
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal.		
Self Report?	NO	Classification:	Minor
Citation:	OpR, No. 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal. (WWTP fence barbed wire down)		
Self Report?	NO	Classification:	Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain units of treatment and collection.		
Self Report?	NO	Classification:	Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the permittee to properly operate and maintain units of treatment and collection.		

Self Report? NO
 Citation: OpR 1 PERMIT Classification: Minor
 Description: Failure by the permittee to properly operate and maintain units of treatment and collection.
 Self Report? NO
 Citation: OpR 1 PERMIT Classification: Minor
 Description: Failure by the permittee to properly operate and maintain units of treatment and collection.
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter A 305.1 Classification: Minor
 OpR 1 PERMIT
 Description: Failure by the permittee to properly operate and maintain units of treatment and collection.
 Self Report? NO
 Citation: 30 TAC Chapter 319, SubChapter A 319.9(a) Classification: Minor
 D&SPC 3a PERMIT
 Description: Failure by the permittee to collect composite samples in accordance with 30 TAC 319.9(a).
 Self Report? NO
 Citation: OpR 1 PERMIT Classification: Minor
 Description: Failure by the City to properly operate and maintain units of treatment and collection.
 Self Report? NO
 Citation: EL&MR 1 PERMIT Classification: Moderate
 Description: Failure by the permittee to comply with an effluent limitation.
 Self Report? NO
 Citation: OpR 1 PERMIT Classification: Minor
 Description: Failure by the permittee to properly operate and maintain units of treatment and collection.
Date: 12/31/2011 (991277) CN600738751
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) Classification: Moderate
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
Date: 2/29/2012 (1004159) CN600738751
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) Classification: Moderate
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
Date: 3/31/2012 (1010727) CN600738751
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) Classification: Moderate
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
Date: 7/3/2012 (1013169) CN600738751
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter A 305.1 Classification: Minor
 OpR 1 PERMIT
 Description: Failure by the permittee to properly operate and maintain units of treatment and collection.
 Self Report? NO
 Citation: OpR 1 PERMIT Classification: Minor
 Description: Failure by the permittee to properly operate and maintain units of treatment and collection.

- 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
ORANGE COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 2;
RN101614030**

§
§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-1424-MWD-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Orange County Water Control and Improvement District No. 2 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Emily Rogers of the law firm Bickerstaff Heath Delgado Acosta LLP, presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a wastewater treatment facility located on the north side of Western Avenue in West Orange, from Adams Bayou west to Boston Avenue (from 1,000 feet to 2,400 feet east of Western Avenue/Dayton Street), Orange County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During a record review investigation conducted on May 18, 2012, a TCEQ Compliance Monitoring Section investigator documented that Respondent:
 - a. Failed to comply with permitted effluent limits, as shown in the effluent violation table, below. Specifically, Respondent exceeded permitted effluent limits in the months of March 2011, May 2011, and July 2011;
 - b. Failed to comply with permitted effluent limits, as shown in the effluent violation table, below. Specifically, Respondent exceeded permitted effluent limits in the month of December 2011;

- c. Failed to comply with permitted effluent limits, as shown in the effluent violation table, below. Specifically, Respondent exceeded permitted effluent limits in the month of February 2012; and
- d. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2012, was not submitted by the 20th day of the following month.

EFFLUENT VIOLATION TABLE					
Permitted Effluent Limits	Monitoring Period End Date				
	March 2011	May 2011	July 2011	December 2011	February 2012
BOD ₅ Daily Avg. Conc. 10 mg/L	c	c	c	c	37
BOD ₅ Daily Max. Conc. 25 mg/L	c	c	c	32	262
BOD ₅ Daily Avg. Loading 102 lbs/day	c	c	c	c	378
Total Cu. Daily Avg. Conc. 0.0087 mg/L	0.0145	0.0095	c	0.0254	0.0097
Total Cu. Daily Max. Conc. 0.018 mg/L	0.051	c	c	0.077	c
Total Cu. Daily Avg. Loading 0.089 lbs/day	0.096	c	c	c	c
Total Zinc Daily Avg. Conc. 0.076 mg/L	0.125	c	c	0.095	c
Total Zinc Daily Max. Conc. 0.16 mg/L	0.37	c	c	0.22	c
TSS Daily Avg. Conc. 15 mg/L	c	c	c	65	110
TSS Daily Max. Conc. 40 mg/L	c	c	58	546	746
TSS Daily Avg. Loading 153 lbs/day	c	c	c	193	1104

Avg. = average
BOD₅ = 5 day biochemical oxygen demand
c = compliant
Conc. = concentration
Cu. = copper

lbs/day = pounds per day
Max. = maximum
mg/L = milligrams per liter
TSS = total suspended solids

- 3. The Executive Director recognizes that on October 11, 2012, Respondent submitted the DMR for the monitoring period ending January 31, 2012.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Findings of Fact Nos. 2.a., 2.b., and 2.c., 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 TPDES Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Finding of Fact No. 2.d., Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d); and TPDES Permit No. WQ0010240001, Monitoring and Reporting Requirements No. 1.
4. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of eighty three thousand dollars (\$83,000.00) 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. Respondent paid two thousand three hundred twenty-five dollars (\$2,325.00) of the administrative penalty. The remaining amount of eighty thousand six hundred seventy-five dollars (\$80,675.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two thousand three hundred five dollars (\$2,305.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Orange County Water Control and Improvement District No. 2, Docket No. 2012-1424-MWD-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Respondent shall update the Facility's operational guidance and conduct employee training to ensure that DMRs are submitted by the 20th of the following month, in accordance with TPDES Permit No. WQ0010240001, Monitoring and Reporting Requirements No. 1.
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification in accordance with Paragraph 2.d. to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 90 days after the effective date of this Agreed Order, Respondent shall submit written certification in accordance with Ordering Provision No. 2.d. to demonstrate compliance with the effluent limits of TPDES Permit No. WQ0010240001, 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 limitation.
 - d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Water Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 2.d.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
8. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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.

11. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

January 15, 2015
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Orange County Water Control and Improvement District No. 2, 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 in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Daniel Tatum, Superintendent

11.10.14
Date

Orange County Water Control and Improvement District No. 2
P.O. Box 278
Orange, Texas 77631