

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0352-MWD-E TCEQ ID: RN101720779 CASE NO.: 35461

RESPONDENT NAME: City of Bellevue

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Bellevue Wastewater Treatment Plant, located north of Bellevue, approximately 900 feet east of Farm-to-Market Road 1288 and 0.3 mile north of the intersection of U.S. Highway 287 and Farm-to-Market Road 1288, C1ay County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 3, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Marvin Bigbie, Mayor, City of Bellevue, P.O. Box 261, Bellevue, Texas 76228-0261 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 10, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 20, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11235001, which expired on December 1, 2006, and is continuing to discharge from the Facility without authorization [30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$20,100</p> <p>Total Deferred: \$4,020 <input checked="" type="checkbox"/> Expedited Settlement <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is able to pay the full payable penalty in accordance with the installment schedule detailed below.</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$505 (remaining \$15,575 due in 35 monthly payments of \$445 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the date of this Agreed Order, whichever is earlier, comply with the permit limits in expired TPDES Permit No. 11235001;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application;</p> <p>c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and</p> <p>d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TPDES Permit No. WQ0011235001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

DATES	Assigned	25-Feb-2008			
	PCW	27-Feb-2008	Screening	27-Feb-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	City of Bellevue				
Reg. Ent. Ref. No.	RN101720779				
Facility/Site Region	3-Abilene	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	35461	No. of Violations	1		
Docket No.	2008-0352-MWD-E	Order Type	1660		
Media Program(s)	Water Quality	Enf. Coordinator	J. Craig Fleming		
Multi-Media		EC's Team	Enforcement Team 3		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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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	34% Enhancement	Subtotals 2, 3, & 7 \$5,100

Notes The penalty is enhanced due to 17 NOVs with nonsimilar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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.	

Total EB Amounts	\$1,290	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$10,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,100
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes

Final Penalty Amount	\$20,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,100
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DEFERRAL	20% Reduction	Adjustment	-\$4,020
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY	\$16,080
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Screening Date 27-Feb-2008

Docket No. 2008-0352-MWD-E

PCW

Respondent City of Bellevue

Policy Revision 2 (September 2002)

Case ID No. 35461

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101720779

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	17	34%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 34%

>> 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

The penalty is enhanced due to 17 NOVs with nonsimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 34%

Screening Date	27-Feb-2008	Docket No.	2008-0352-MWD-E	PCW
Respondent	City of Bellevue			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35461			<i>PCW Revision January 29, 2008</i>
Reg. Ent. Reference No.	RN101720779			
Media [Statute]	Water Quality			
Enf. Coordinator	J. Craig Fleming			

Violation Number

Rule Cite(s)
30 Tex. Admin. Code §§ 305.65 and 305.125(2), and Tex. Water Code § 26.121(a)

Violation Description
Failed to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11235001, which expired on December 1, 2006, and is continuing to discharge from the Facility without authorization.

Base Penalty

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

OR	Harm			Percent <input type="text" value="0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent <input type="text" value="10%"/>
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
	100% of the rule requirement was not met				

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Fifteen monthly events are recommended from the date the TPDES permit expired on December 1, 2006, to the screening date of February 27, 2008.

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 City of Bellevue
Case ID No. 35461
Reg. Ent. Reference No. RN101720779
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$10,000	1-Dec-2006	30-Jun-2009	2.6	\$1,290	n/a	\$1,290
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a new permit application to obtain authorization to discharge wastewater. The Date Required is the date the previous permit expired. The Final Date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,290

Compliance History

Customer/Respondent/Owner-Operator: CN600689277 City of Bellevue Classification: AVERAGE Rating: 0.79
Regulated Entity: RN101720779 CITY OF BELLEVUE Classification: AVERAGE Site Rating: 1.59
ID Number(s): WASTEWATER PERMIT TPDES0027171
WASTEWATER PERMIT TX0027171
WASTEWATER PERMIT WQ0011235002
WASTEWATER LICENSING LICENSE WQ0011235001
Location: North of Bellevue, approx 900 ft east of FM 1288 and 0.3 mile north of the intersection of U.S. Highway 287 and Farm-to-Market Road 1288 in Clay County, TX Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: February 26, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 26, 2003 to February 26, 2008

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

Name: J. Craig Fleming Phone: (512) 239-5806

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 04/16/2004 (302632)
- 2 04/16/2004 (302633)
- 3 04/16/2004 (302634)
- 4 04/16/2004 (302635)
- 5 04/16/2004 (302636)
- 6 04/16/2004 (302637)
- 7 04/16/2004 (302638)
- 8 04/16/2004 (302639)
- 9 04/16/2004 (302640)
- 10 04/16/2004 (302641)
- 11 04/16/2004 (302642)
- 12 04/16/2004 (302644)
- 13 04/16/2004 (302645)
- 14 04/16/2004 (302646)
- 15 04/16/2004 (302647)
- 16 04/16/2004 (302648)
- 17 04/19/2004 (302643)
- 18 04/19/2004 (302649)

19 05/12/2004 (271918)
 20 08/09/2004 (354985)
 21 09/28/2004 (335843)
 22 10/29/2004 (354980)
 23 10/29/2004 (354981)

 24 10/29/2004 (354982)
 25 10/29/2004 (354983)
 26 10/29/2004 (354984)
 27 10/29/2004 (354986)
 28 07/07/2005 (442297)
 29 07/07/2005 (442298)
 30 07/07/2005 (442299)
 31 07/07/2005 (442300)
 32 07/07/2005 (442301)
 33 07/07/2005 (442305)
 34 07/07/2005 (442306)
 35 07/07/2005 (442307)
 36 07/07/2005 (442308)
 37 09/19/2005 (442302)
 38 09/19/2005 (442303)
 39 09/19/2005 (442304)
 40 07/18/2006 (487311)
 41 02/20/2008 (568174)

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

Date 03/31/2003 (302635)
 Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 04/30/2003 (302636)
 Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 05/31/2003 (302637)
 Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 06/30/2003 (302638)
 Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 07/31/2003 (302639)
 Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 08/31/2003 (302641)
 Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 09/30/2003 (302643)
 Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 10/31/2003 (302645)

Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 11/30/2003 (302647)

Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 03/31/2004 (354981)

Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 04/30/2004 (354982)

Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 05/10/2004 (271918)

Self Report? NO Classifi Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT WQ0011235-001
 Description: Failure to measure effluent flow a minimum of five times per week.

Self Report? NO Classifi Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to analyze effluent pH samples during the required holding times.

Self Report? NO Classifi Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT WQ0011235-001
 Description: Failure to monitor dissolved oxygen requirements of effluent discharge.
 Date 05/31/2004 (354983)

Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 06/30/2004 (354984)

Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 09/30/2004 (442305)

Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 04/30/2005 (442300)

Self Report? YES Classifi Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 02/03/2006 (450434)

Self Report? NO Classifi Major
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state.

Self Report? NO Classifi Major
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: OP Operation Requirements 1, Page 9

Description: Failure to properly operate and maintain the wastewater treatment
Self Report? NO Classifi Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: OP WQ0011235-001
Description: Failure to measure effluent flow a minimum of five times per week.

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
CITY OF BELLEVUE
RN101720779

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0352-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Bellevue ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, appear before the Commission and together stipulate that:

1. The City owns and operates a domestic wastewater treatment system north of Bellevue, approximately 900 feet east of Farm-to-Market Road 1288 and 0.3 mile north of the intersection of U.S. Highway 287 and Farm-to-Market Road 1288 in Clay County, Texas (the "Facility").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about February 25, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty Thousand One Hundred Dollars (\$20,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Five Hundred Five Dollars (\$505) of the administrative penalty and Four Thousand Twenty Dollars (\$4,020) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of Fifteen Thousand Five Hundred Seventy-Five Dollars (\$15,575) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Forty-Five Dollars (\$445) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to maintain authorization for the discharge of wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on January 10, 2008. Specifically, the City did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11235001, which expired on December 1, 2006, and is continuing to discharge from the Facility without authorization.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Bellevue, Docket No. 2008-0352-MWD-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the date of this Agreed Order, whichever is earlier, comply with the permit limits in expired TPDES Permit No. 11235001;
 - b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE ch. 305 (relating to Consolidated Permits) to:

Water Quality Applications Team, Permits Administrative Review Section
Registration, Review and Reporting Division, MC-161
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
 - d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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Section header or title for the main body of text.

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Second paragraph of handwritten text, continuing the narrative or argument.

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"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:

Manager, Water Section
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City 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 City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City 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 City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, 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

John S. Sullivan
For the Executive Director

10/10/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Marvin Bigbie
Signature

7-29-08
Date

Marvin Bigbie
Name (Printed or typed)
Authorized Representative of
City of Bellevue

Mayor
Title

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

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Handwritten text: 20-95-5

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Handwritten text: Mary A

Handwritten signature or name in cursive.

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