

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0536-MWD-E **TCEQ ID:** RN101610293 **CASE NO.:** 37460

**RESPONDENT NAME:** City of Webster

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Central Facility, 613 Magnolia Street, at the east corner of the intersection of Texas Street and Magnolia Street, Webster, Harris County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater system</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 28, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1460; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Joseph Ferro, Water/Wastewater Superintendent, City of Webster, 101 Pennsylvania Street, Webster, Texas 77598                      Mr. Wayne J. Sabo, City Manager, City of Webster, 101 Pennsylvania Street, Webster, Texas 77598  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 31, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 10, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with permit effluent limits for ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010520001, Effluent Limits and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$8,250</p> <p><b>Total Deferred:</b> \$1,650  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$6,600</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has repaired the control, alarm, electrical, and blower systems; implemented the use of a backup control float system; purchased a 1.2 motionless electrical generator; and returned to compliance with permit effluent limits during February 2009.</p>

Additional ID No(s): WQ0010520001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

## TCEQ

<b>DATES</b>	<b>Assigned</b>	10-Apr-2009			
	<b>PCW</b>	20-Apr-2009	<b>Screening</b>	15-Apr-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	City of Webster				
<b>Reg. Ent. Ref. No.</b>	RN101610293				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	37460	<b>No. of Violations</b>	2		
<b>Docket No.</b>	2009-0536-MWD-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jeremy Escobar		
		<b>EC's Team</b>	Enforcement Team 3		
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

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

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

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

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

**Notes**

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

**Notes**

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

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

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

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

**PAYABLE PENALTY**

Screening Date 15-Apr-2009

Docket No. 2009-0536-MWD-E

PCW

Respondent City of Webster

Policy Revision 2 (September 2002)

Case ID No. 37460

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610293

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	7	35%
	Other written NOV's	0	0%
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) 35%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The penalty is enhanced due to six self-reported effluent violations and one NOV with violations that are same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 35%

<b>Screening Date</b> 15-Apr-2009	<b>Docket No.</b> 2009-0536-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Webster		Policy Revision 2 (September 2002)
<b>Case ID No.</b> 37460		PCW Revision October 30, 2008
<b>Reg. Ent. Reference No.</b> RN101610293		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Jeremy Escobar		
<b>Violation Number</b> 1		
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010520001, Effluent Limits and Monitoring Requirements No. 1	
<b>Violation Description</b>	Failed to comply with permit effluent limits, as documented in a record review conducted on March 31, 2009. See attached table.	

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input style="width: 50px;" type="text" value="50%"/>

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input style="width: 50px;" type="text" value="0%"/>

**Matrix Notes**  
 A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which did not exceed levels 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 November 2008.

**Good Faith Efforts to Comply**  Reduction

	<b>25.0% Reduction</b>
	Before NOV    NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>
Ordinary	<input checked="" type="text" value="X"/>
N/A	<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** City of Webster  
**Case ID No.** 37460  
**Reg. Ent. Reference No.** RN101610293  
**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	\$50,000	30-Nov-2008	28-Feb-2009	0.25	\$41	\$822	\$863
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

Actual cost of construction activities involved with replacing air blower and electrical systems that caused the effluent violations. Date required is the first month of noncompliance. Final date is the date compliance was achieved.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

TOTAL

\$863

<b>Screening Date</b> 15-Apr-2009	<b>Docket No.</b> 2009-0536-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Webster	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 37460	<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101610293		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Jeremy Escobar		
<b>Violation Number</b>	2	
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010520001, Effluent Limits and Monitoring Requirements No. 1	
<b>Violation Description</b>	Failed to comply with permit effluent limits, as documented in a record review conducted on March 31, 2009. See attached table.	
<b>Base Penalty</b>		\$10,000

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	<b>Actual</b>				X
<b>Potential</b>				<b>Percent</b> 25%	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0%

**Matrix Notes**  
 A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events   Number of violation days

<small>mark only one with an x</small>	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$2,500

One quarterly event is recommended for the quarter containing the month of December 2008.

**Good Faith Efforts to Comply**  Reduction

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

**Notes** The Respondent returned to compliance in February 2009.

**Violation Subtotal** \$1,875

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,750"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,750"/>	

## Economic Benefit Worksheet

**Respondent** City of Webster  
**Case ID No.** 37460  
**Reg. Ent. Reference No.** RN101610293  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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 violation 1.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

### Effluent Violation Table

City of Webster  
Docket No. 2009-0536-MWD-E  
WQ0010520001

Permitted Effluent Limits	NH3-N Daily Average Concentration 2.0 mg/L	NH3-N Daily Maximum Concentration 12 mg/L	NH3-N Daily Average Loading 28 lbs/day
November 2008	5.7	15.6	77.88
December 2008	5.1	16.4	50.4

NH3-N = ammonia nitrogen	C = compliant	mg/L = milligrams per Liter	Lbs/day = pounds per day
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# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600245054	City of Webster	Classification: AVERAGE	Rating: 2.06
Regulated Entity:	RN101610293	CENTRAL FACILITY	Classification: AVERAGE	Site Rating: 0.16
ID Number(s):	WASTEWATER	PERMIT	WQ0010520001	
	WASTEWATER	PERMIT	TPDES0024589	
	WASTEWATER	PERMIT	TX0024589	
	WASTEWATER LICENSING	LICENSE	WQ0010520001	
	STORMWATER	PERMIT	TXR05V822	
Location:	613 Magnolia, at the east corner of the intersection of Texas Street and Magnolia Street in the City of Webster in Harris County, Texas			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	April 15, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 15, 2004 to April 15, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jeremy Escobar	Phone:	239 - 1460	

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### 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	(300536)
2	05/17/2004	(300538)
3	06/22/2004	(300540)
4	08/26/2004	(354146)
5	09/15/2004	(354147)
6	09/17/2004	(354150)
7	10/18/2004	(354148)
8	11/12/2004	(354149)
9	12/20/2004	(383001)
10	02/14/2005	(382997)
11	03/03/2005	(350688)
12	03/14/2005	(382998)
13	03/28/2005	(382999)
14	03/28/2005	(383000)
15	05/16/2005	(420832)
16	06/20/2005	(420833)
17	07/19/2005	(400400)
18	07/19/2005	(400941)
19	07/29/2005	(402203)
20	07/29/2005	(402251)
21	08/03/2005	(403204)
22	08/05/2005	(403719)
23	08/11/2005	(404803)

24 08/15/2005 (405006)  
 25 08/15/2005 (441806)  
 26 08/16/2005 (405044)  
 27 08/17/2005 (405473)  
 28 08/18/2005 (405253)  
 29 08/22/2005 (406045)  
 30 08/29/2005 (406677)  
 31 09/20/2005 (441807)  
 32 10/18/2005 (470408)  
 33 10/27/2005 (441808)  
 34 11/17/2005 (405725)  
 35 11/21/2005 (470406)  
 36 12/20/2005 (470407)  
 37 02/13/2006 (470404)  
 38 03/22/2006 (470405)  
 39 03/28/2006 (499474)  
 40 04/19/2006 (499471)  
 41 05/22/2006 (499472)  
 42 06/19/2006 (499473)  
 43 08/17/2006 (521539)  
 44 09/18/2006 (521540)  
 45 09/18/2006 (521542)  
 46 10/12/2006 (521541)  
 47 11/06/2006 (512700)  
 48 11/13/2006 (546105)  
 49 12/14/2006 (546106)  
 50 02/15/2007 (546104)  
 51 03/19/2007 (578097)  
 52 04/05/2007 (578098)  
 53 05/09/2007 (578099)  
 54 06/12/2007 (578100)  
 55 06/20/2007 (578101)  
 56 08/09/2007 (578102)  
 57 09/17/2007 (607861)  
 58 10/10/2007 (607862)  
 59 11/14/2007 (620570)  
 60 12/13/2007 (620571)  
 61 01/14/2008 (620572)  
 62 02/13/2008 (672830)  
 63 03/14/2008 (672831)  
 64 04/24/2008 (672832)  
 65 04/24/2008 (672833)  
 66 04/29/2008 (653618)  
 67 05/15/2008 (690862)  
 68 06/11/2008 (690863)  
 69 08/12/2008 (711744)  
 70 09/23/2008 (711745)  
 71 10/22/2008 (711746)  
 72 11/20/2008 (728209)  
 73 12/11/2008 (728210)  
 74 01/06/2009 (728211)  
 75 01/29/2009 (710294)

76 04/10/2009 (740828)

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

Date: 10/31/2004 (354149) CN600245054  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (382998) CN600245054  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (499474) CN600245054  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (578101) CN600245054  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2008 (728210) CN600245054  
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 (728211) CN600245054  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/29/2009 (710294) CN600245054  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Interim ELMR, Nos. 1 & 2 PERMIT  
Description: Failure to maintain compliance with the permitted effluent limits for ammonia-nitrogen (NH3-N) and total chlorine residual.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.6  
30 TAC Chapter 319, SubChapter A 319.9(c)  
Description: Failure to record the Quality Assurance/Quality Control (QA/QC) analysis on the total chlorine residual.

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 WEBSTER  
RN101610293

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0536-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 Webster ("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 City appear before the Commission and together stipulate that:

1. The City owns and operates a domestic wastewater system at 613 Magnolia Street, at the east corner of the intersection of Texas Street and Magnolia Street in Webster, Harris 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 April 15, 2009.
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 Eight Thousand Two Hundred Fifty Dollars (\$8,250) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The City has paid Six Thousand Six Hundred Dollars (\$6,600) of the administrative penalty and One Thousand Six Hundred Fifty Dollars (\$1,650) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

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 recognizes that the City has repaired the control, alarm, electrical, and blower systems; implemented the use of a backup control float system; purchased a 1.2 motionless electrical generator; and returned to compliance with permit effluent limits during February 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010520001, Effluent Limits and Monitoring Requirements No. 1, as documented during a record review conducted on March 31, 2009 and illustrated in the following table:

Effluent Violation Table			
Permitted Effluent Limits	NH3-N Daily Average Concentration 2.0 mg/L	NH3-N Daily Maximum Concentration 12 mg/L	NH3-N Daily Average Loading 28 lbs/day
November 2008	5.7	15.6	77.88
December 2008	5.1	16.4	50.4

NH3-N = ammonia nitrogen	C = compliant	mg/L = milligrams per Liter	Lbs/day = pounds per day
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### III. DENIALS

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

### IV. ORDERING PROVISIONS

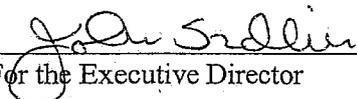
1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section 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 Webster, Docket No. 2009-0536-MWD-E" to:  
  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The 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.
3. 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.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. 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

  
\_\_\_\_\_  
For the Executive Director

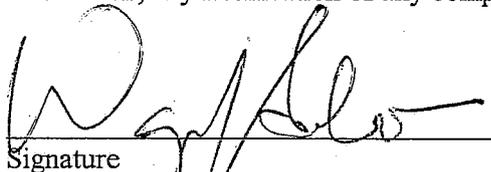
\_\_\_\_\_  
Date 9/3/2009

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 7/14/09

\_\_\_\_\_  
WAYNE J. SABO  
Name (Printed or typed)  
Authorized Representative of  
City of Webster

\_\_\_\_\_  
City Manager  
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.