

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2009-0814-MWD-E **TCEQ ID:** RN101610111 **CASE NO.:** 37718**RESPONDENT NAME:** City of Karnes City

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input checked="" 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: Milam Street Plant, approximately 0.88 mile north of the intersection of United States Highway 181 and Farm-to-Market Road 1144, Karnes County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 2, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Don Tynrak, Mayor, City of Karnes City, 314 East Calvert Avenue, Karnes City, Texas 78118 Mr. Larry Pippen, City Administrator, City of Karnes City, 314 East Calvert Avenue, Karnes City, Texas 78118 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 26, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 28, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permit effluent limits for five-day biochemical oxygen demand, total suspended solids, and pH [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010352001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p> | <p>Total Assessed: \$9,030</p> <p>Total Deferred: \$0 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$9,030</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>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010352001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least six consecutive months of compliance with all permitted effluent limitations.</p> |

Additional ID No(s): TPDES Permit No. WQ0010352001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|-----------------|------------|------------------|------------|----------------|--|
| DATES | Assigned | 1-Jun-2009 | Screening | 2-Jun-2009 | EPA Due | |
| | PCW | 5-Jun-2009 | | | | |

| | |
|--|---------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Karnes City |
| Reg. Ent. Ref. No. | RN101610111 |
| Facility/Site Region | 13-San Antonio |
| Major/Minor Source | Minor |

| | | | |
|--------------------------------|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37718 | No. of Violations | 1 |
| Docket No. | 2009-0814-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Jorge Ibarra, P.E. |
| | | 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 | \$3,000 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|--------------------|--------------------------------|---------|
| Compliance History | 211.0% Enhancement | Subtotals 2, 3, & 7 | \$6,330 |
|---------------------------|--------------------|--------------------------------|---------|

Notes: The Respondent was issued one Findings Agreed Order, two NOVs with the same/similar type of violations, three NOVs without the same/similar type of violations, and self-reported 34 months of effluent violations.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| 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 \$521
 Approx. Cost of Compliance \$5,000
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$9,330 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|-------|-------------------|--------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | -3.2% | Adjustment | -\$300 |
|---|-------|-------------------|--------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction to prevent double-enhancement of the penalty amount for same violations that were self-reported.

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$9,030 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$9,030 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

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

Notes: No deferral is recommended for Findings Orders.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$9,030 |
|------------------------|---------|

Screening Date: 2-Jun-2009

Docket No.: 2009-0814-MWD-E

PCW

Respondent: City of Karnes City

Policy Revision 2 (September 2002)

Case ID No.: 37718

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101610111

Media [Statute]: Water Quality

Enf. Coordinator: Jorge Ibarra, P.E.

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) | 36 | 180% |
| | Other written NOVs | 3 | 6% |
| 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 | 1 | 25% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (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) 211%

>> **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 Respondent was issued one Findings Agreed Order, two NOVs with the same/similar type of violations, three NOVs without the same/similar type of violations, and self-reported 34 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 211%

Screening Date 2-Jun-2009 **Docket No.** 2009-0814-MWD-E **PCW**
Respondent City of Karnes City *Policy Revision 2 (September 2002)*
Case ID No. 37718 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101610111
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number
Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010352001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)
Violation Description Failed to comply with permit effluent limits. See attached Effluent Limit Violation Table.
Base Penalty

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|----------------------|----------------------|-------------------------------------|----------------------------------|
| | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text" value="10%"/> |
| 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 biochemical oxygen demand (5-day) ("BOD₅") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Maximum pH and total suspended solids ("TSS") values were also considered. As a result of these 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="checkbox"/> |
| 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 EOPRP/Settlement Offer |
|---------------|-------------------------------------|-------------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input checked="" type="checkbox"/> | (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 Karnes City
Case ID No.: 37718
Reg. Ent. Reference No.: RN101610111
Media: Water Quality
Violation No.: 1

| | |
|------------------|-----------------------|
| 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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| 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) | \$5,000 | 1-Jun-2008 | 1-Jul-2010 | 2.08 | \$521 | n/a | \$521 |

Notes for DELAYED costs: Estimated cost to evaluate the system to determine the cause of the exceedances and to develop and implement measures to ensure compliance with permit effluent limits. Date required is the first date of non-compliance and the final date is the expected compliance date.

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 | | | | 0.00 | \$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 **\$5,000** **TOTAL** **\$521**

Effluent Limit Violation Table

table rev.

City of Karnes City

RN101610111, Case No. 37718

2009-0814-MWD-E

Jorge Ibarra, P.E.

Corresponds to Violation Number:

1

EFFLUENT PARAMETER

Permit Limit

| | BOD5 Daily Average | TSS Daily Average | pH Maximum | | | | | | |
|-------------------|--------------------|-------------------|------------|--|--|--|--|--|--|
| <i>Month/Year</i> | 30 mg/L | 90 mg/L | 9 su | | | | | | |
| Jun-08 | c | 93 | c | | | | | | |
| Sep-08 | c | 119 | c | | | | | | |
| Oct-08 | c | 107 | c | | | | | | |
| Nov-08 | 30.25 | 112 | 9.6 | | | | | | |
| Dec-08 | c | 98 | 9.34 | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |

| Name | Abbreviation |
|-----------------------------------|--------------|
| milligram per liter | mg/L |
| Total Suspended Solids | TSS |
| Biochemical Oxygen Demand (5-day) | BOD5 |
| standard units | su |
| compliant | c |

Compliance History Report

| | | | |
|---|---|-------------------------|-----------------------|
| Customer/Respondent/Owner-Operator: | CN603450917 City of Karnes City | Classification: AVERAGE | Rating: 2.68 |
| Regulated Entity: | RN101610111 MILAM STREET PLANT | Classification: AVERAGE | Site Rating: 2.68 |
| ID Number(s): | WASTEWATER | PERMIT | WQ0010352001 |
| | WASTEWATER | PERMIT | TPDES0086134 |
| | WASTEWATER | PERMIT | TX0086134 |
| | WASTEWATER LICENSING | LICENSE | WQ0010352001 |
| Location: | approximately 0.88 mile north of the intersection of United States Highway 181 and Farm-to-Market Road 1144 in Karnes County, Texas | | |
| TCEQ Region: | REGION 13 - SAN ANTONIO | | |
| Date Compliance History Prepared: | June 03, 2009 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | June 03, 2004 to June 03, 2009 | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | |
| Name: | <u>Jorge Ibarra, P.E.</u> | Phone: | <u>(817) 588-5890</u> |

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.

| | |
|---|----------------------------|
| Effective Date: 02/05/2006 | ADMINORDER 2004-0521-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. | |

- 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 | 06/23/2004 | (316926) |
| 2 | 06/29/2004 | (276300) |
| 3 | 07/20/2004 | (361129) |
| 4 | 09/02/2004 | (361130) |
| 5 | 09/30/2004 | (361131) |
| 6 | 10/26/2004 | (361132) |

| | | |
|----|------------|----------|
| 7 | 11/24/2004 | (361133) |
| 8 | 01/04/2005 | (386989) |
| 9 | 01/24/2005 | (386990) |
| 10 | 01/31/2005 | (343899) |
| 11 | 02/14/2005 | (386988) |
| 12 | 03/15/2005 | (424773) |
| 13 | 04/22/2005 | (424774) |
| 14 | 05/26/2005 | (424775) |
| 15 | 06/27/2005 | (424776) |
| 16 | 07/26/2005 | (445442) |
| 17 | 09/13/2005 | (445443) |
| 18 | 10/17/2005 | (476928) |
| 19 | 10/17/2005 | (476929) |
| 20 | 11/28/2005 | (476930) |
| 21 | 12/27/2005 | (476931) |
| 22 | 01/26/2006 | (476932) |
| 23 | 03/08/2006 | (476925) |
| 24 | 03/27/2006 | (476926) |
| 25 | 03/27/2006 | (476927) |
| 26 | 05/10/2006 | (503737) |
| 27 | 05/25/2006 | (503738) |
| 28 | 05/31/2006 | (465948) |
| 29 | 08/01/2006 | (526090) |
| 30 | 08/01/2006 | (526091) |
| 31 | 08/01/2006 | (526092) |
| 32 | 09/25/2006 | (550445) |
| 33 | 10/27/2006 | (550446) |
| 34 | 11/29/2006 | (531947) |
| 35 | 12/05/2006 | (550447) |
| 36 | 12/22/2006 | (550448) |
| 37 | 01/23/2007 | (586617) |
| 38 | 03/05/2007 | (586616) |
| 39 | 07/10/2007 | (593325) |
| 40 | 08/13/2007 | (604746) |
| 41 | 09/05/2007 | (604741) |
| 42 | 09/05/2007 | (604742) |
| 43 | 09/05/2007 | (604744) |
| 44 | 09/06/2007 | (604745) |
| 45 | 09/12/2007 | (604743) |
| 46 | 09/17/2007 | (573929) |
| 47 | 09/24/2007 | (604747) |
| 48 | 09/28/2007 | (594558) |
| 49 | 10/15/2007 | (624537) |
| 50 | 11/15/2007 | (624538) |
| 51 | 12/11/2007 | (675402) |
| 52 | 01/09/2008 | (612368) |
| 53 | 01/10/2008 | (675403) |
| 54 | 02/19/2008 | (675400) |
| 55 | 02/22/2008 | (618721) |
| 56 | 03/13/2008 | (675401) |
| 57 | 04/07/2008 | (693698) |
| 58 | 05/02/2008 | (693699) |
| 59 | 05/06/2008 | (654953) |
| 60 | 05/29/2008 | (540011) |
| 61 | 06/13/2008 | (693700) |
| 62 | 07/08/2008 | (715032) |

63 08/04/2008 (715033)
 64 09/08/2008 (715034)
 65 10/08/2008 (730880)
 66 11/14/2008 (730881)
 67 12/09/2008 (730882)
 68 02/20/2009 (724247)
 69 05/29/2009 (740225)

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

Date: 06/30/2004 (276300) CN603450917
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(a)(8)
 Description: Failure to have an approved backflow prevention device that meets the requirements of the AWWA Standard C506 (latest revision) and AWWA Manual M14.

Date: 09/30/2004 (361132) CN603450917
 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: 10/31/2004 (361133) CN603450917
 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: 11/30/2004 (386989) CN603450917
 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: 12/31/2004 (386990) CN603450917
 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: 01/26/2005 (343899) CN603450917
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to properly operate and maintain all facilities and systems of treatment to achieve compliance with the permit conditions.

Date: 01/31/2005 (386988) CN603450917
 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 (424773) CN603450917
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (424774) CN603450917
 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: 04/30/2005 (424775) CN603450917
 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: 05/31/2005 (424776) CN603450917
 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: 06/30/2005 (445442) CN603450917
 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: 08/31/2005 (476928) CN603450917
 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: 10/31/2005 (476930) CN603450917
 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: 11/30/2005 (476931) CN603450917
 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: 12/31/2005 (476932) CN603450917
 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: 01/31/2006 (476925) CN603450917
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2006 (503737) CN603450917
 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: 04/30/2006 (503738) CN603450917
 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: 09/30/2006 (550446) CN603450917
 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: 10/31/2006 (550447) CN603450917
 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: 11/30/2006 (550448) CN603450917
 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: 12/31/2006 (586617) CN603450917
 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: 01/31/2007 (586616) CN603450917
 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: 04/30/2007 (604743) CN603450917
 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: 07/10/2007 (593325) CN603450917
 Self Report? NO Classification: Moderate

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

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

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 07/31/2007 (604746) CN603450917
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2007 (604747) CN603450917
 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 (675403) CN603450917
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2008 (675400) CN603450917
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/20/2008 (618721) CN603450917
 Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)
 Effluent Limits PERMIT

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

Date: 02/29/2008 (675401) CN603450917
 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: 05/31/2008 (693700) CN603450917
 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: 06/30/2008 (715032) CN603450917
 Self Report? YES Classification: Moderate

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

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

Date: 09/30/2008 (730880) CN603450917
 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 (730881) CN603450917
 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 (730882) CN603450917
 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 CN603450917
 Self Report? YES Classification: Moderate

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

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

Date: 02/23/2009 (724247) CN603450917
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with effluent permit parameter limitations.

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 KARNES CITY
RN101610111

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0814-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Karnes City ("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 presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment plant located approximately 0.88 mile north of the intersection of United States Highway 181 and Farm-to-Market Road 1144 in Karnes County, Texas (the "Facility").

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on March 26, 2009, TCEQ staff documented that the City did not comply with permit effluent limits as depicted in the table below:

| <i>EFFLUENT PARAMETER</i> | | | |
|----------------------------------|---------------------------|--------------------------|-------------------|
| Permit Limit | | | |
| | BOD5 Daily Average | TSS Daily Average | pH Maximum |
| <i>Month/Year</i> | 30 mg/L | 90 mg/L | 9 su |
| Jun-08 | c | 93 | c |
| Sep-08 | c | 119 | c |
| Oct-08 | c | 107 | c |
| Nov-08 | 30.25 | 112 | 9.6 |
| Dec-08 | c | 98 | 9.34 |

BOD5 = biochemical oxygen demand (5 day) TSS = total suspended solids
 mg/L = milligrams per liter c = compliant su = standard units

4. The City received notice of the violations on June 2, 2009.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to comply with permit effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010352001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Nine Thousand Thirty Dollars (\$9,030) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The City has paid the Nine Thousand Thirty Dollar (\$9,030) administrative penalty.

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Nine Thousand Thirty Dollars (\$9,030) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Karnes City, Docket No. 2009-0814-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 City shall, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of Permit No. WQ0010352001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least six consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

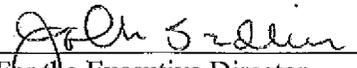
Water Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/14/2009

Date

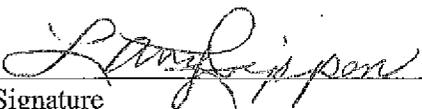
I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Karnes City. I am authorized to agree to the attached Agreed Order on behalf of City of Karnes City, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment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

I understand that by entering into this Agreed Order, City of Karnes City waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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



Signature

August 28, 2009

Date

Larry Pippen

Name (Printed or typed)
Authorized Representative of
City of Karnes City

City Administrator

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.

