

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0607-MWD-E TCEQ ID: RN102183001 CASE NO.: 37514

RESPONDENT NAME: City of Eagle Pass Water Works System

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: City of Eagle Pass, located on Farm-to-Market Road 1021 approximately five miles southeast of the intersection of Farm-to-Market Road 375 and Farm-to-Market Road 1021, Maverick County</p> <p>TYPE OF OPERATION: Wastewater treatment facility with an associated collection system</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 October 26, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jose De Luna, President, City of Eagle Pass Water Works System, P.O. Box 808, Eagle Pass, Texas 78853 Mr. Roberto Gonzalez, General Manager, City of Eagle Pass Water Works System, P.O. Box 808, Eagle Pass, Texas 78853 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: January 23, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 4, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010406002, Permit Conditions No. 2.d].</p>	<p>Total Assessed: \$24,605</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$24,605</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>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent removed and properly disposed of sludge and cleaned and disinfected the affected areas by July 14, 2008.</p>

Additional ID No(s): WQ0010406002

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

DATES	Assigned	9-Mar-2008			
	PCW	30-Mar-2008	Screening	27-Mar-2008	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Eagle Pass Water Works System		
Reg. Ent. Ref. No.	RN102183001		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37514	No. of Violations	2
Docket No.	2009-0607-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$11,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	58.0% Enhancement	Subtotals 2, 3, & 7	\$6,380
Notes	The penalty is enhanced due to nine self-reported monthly effluent violations, one NOV with violations same/similar to those cited in this action and four NOVs without same/similar 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	\$2,750
Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
Total EB Amounts	\$3	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$22,000		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$14,630
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$14,630
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$14,630
DEFERRAL	0.0% Reduction	Adjustment	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	No deferral is recommended for Findings Orders.		
PAYABLE PENALTY			\$14,630

Screening Date	27-Mar-2008	Docket No.	2009-0607-MWD-E	PCW
Respondent	City of Eagle Pass Water Works System			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37514			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102183001			
Media (Statute)	Water Quality			
Enf. Coordinator	Steve Villatoro			

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 (<i>number of NOVs meeting criteria</i>)	10	50%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 58%

>> **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 nine self-reported monthly effluent violations, one NOV with violations same/similar to those cited in this action and four NOVs without same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 58%

Screening Date: 27-Mar-2008 **Docket No.:** 2009-0607-MWD-E **PCW**
Respondent: City of Eagle Pass Water Works System *Policy Revision 2 (September 2002)*
Case ID No.: 37514 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN102183001
Media [Statute]: Water Quality
Enf. Coordinator: Steve Villatoro

Violation Number: 1
Rule Cite(s): Tex. Water Code § 26.123(a), 30 Tex. Admin. Code § 306.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010406002, Permit Conditions No. 2.d.
Violation Description: Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on January 23, 2009. Specifically, a review of the Facility's records indicated that on April 4, 2008, a clogged main line located at the intersection of 277 North and Daisy Diaz Street resulted in an overflow of approximately 600 gallons of wastewater from the manhole.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	Potential	X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
0%	0%	0%	0%	

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 Number of violation days: 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty: \$1,000

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction **\$250**

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

Notes: The Respondent achieved compliance on April 4, 2008.

Violation Subtotal: \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$0

Violation Final Penalty Total: \$1,330

This violation Final Assessed Penalty (adjusted for limits): \$1,330

Economic Benefit Worksheet

Respondent City of Eagle Pass Water Works System

Case ID No. 37514

Reg. Ent. Reference No. RN102183001

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	4-Apr-2008	4-Apr-2008	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	\$8,500	4-Apr-2008	4-Apr-2008	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

Estimated costs to locate and remove the blockage and to clean and disinfect affected area. The date required is the date of the discharge. The final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$13,500

TOTAL

\$0

Screening Date: 27-Mar-2008 **Docket No.:** 2009-0607-MWD-E **PCW**
Respondent: City of Eagle Pass Water Works System *Policy Revision 2 (September 2002)*
Case ID No.: 37514 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN102183001
Media [Statute]: Water Quality
Enf. Coordinator: Steve Villatoro

Violation Number: 2
Rule Cite(s): Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010408002, Permit Conditions No. 2.d.
Violation Description: Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on January 23, 2009. Specifically, a review of the Facility's records indicated that on July 12, 2008, a transfer switch located at the River Lift Station was damaged by an irregular voltage, which caused a power failure resulting in an overflow of approximately 3.5 million gallons of wastewater from the lift station into the receiving waters.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes: Human health or the environment has been exposed to pollutants that exceed protective levels as a result of this violation.

Adjustment: \$5,000

Violation Subtotal: \$5,000

Violation Events

Number of Violation Events: 2 Number of violation days: 2
 mark only one with an x
 daily: x
 weekly:
 monthly:
 quarterly:
 semiannual:
 annual:
 single event:
Violation Base Penalty: \$10,000
 Two daily events are recommended from the date of discharge (July 12, 2008) to the date of compliance (July 14, 2008).

Good Faith Efforts to Comply **25.0% Reduction** **\$2,500**

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

Notes: The Respondent achieved compliance on July 14, 2008.

Violation Subtotal: \$7,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount: \$3 **Violation Final Penalty Total:** \$13,300
This violation Final Assessed Penalty (adjusted for limits): \$13,300

Economic Benefit Worksheet

Respondent: City of Eagle Pass Water Works System
Case ID No.: 37514
Reg. Ent. Reference No.: RN102183001
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)	\$3,500	12-Jul-2008	14-Jul-2008	0.01	\$0	\$1	\$1
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	\$5,000	12-Jul-2008	14-Jul-2008	0.01	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to replace damaged equipment and to clean and disinfect affected area. The date required is the date of the discharge. The final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$8,500

TOTAL

\$3

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

TCEQ	
DATES	Assigned 9-Mar-2008
PCW	30-Mar-2008
Screening	27-Mar-2008
EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Eagle Pass Water Works System
Reg. Ent. Ref. No.	RN102183001
Facility/Site Region	16-Laredo
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37514	No. of Violations	1
Docket No.	2009-0607-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 1
Maximum	\$10,000		

Penalty Calculation Section	
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$7,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	58.0% Enhancement Subtotals 2, 3, & 7 \$4,350
Notes	The penalty is enhanced due to nine self-reported monthly effluent violations, one NOV with violations same/similar to those cited in this action and four NOVs without same/similar 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 \$1,875
Economic Benefit	0.0% Enhancement* Subtotal 6 \$0
Total EB Amounts	\$162
Approx. Cost of Compliance	\$8,000
*Capped at the Total EB \$ Amount	
SUM OF SUBTOTALS 1-7	Final Subtotal \$9,975
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment \$0
Reduces or enhances the Final Subtotal by the indicated percentage.	
Notes	
Final Penalty Amount \$9,975	
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$9,975
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	\$9,975

Screening Date: 27-Mar-2008

Docket No.: 2009-0607-MWD-E

PCW

Respondent: City of Eagle Pass Water Works System

Policy Revision 2 (September 2002)

Case ID No.: 37514

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102183001

Media [Statute]: Water Quality

Enf. Coordinator: Steve Villatoro

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 <i>(number of NOVs meeting criteria)</i>	10	50%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 58%

>> **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 nine self-reported monthly effluent violations, one NOV with violations same/similar to those cited in this action and four NOVs without same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 58%

Screening Date	27-Mar-2008	Docket No.	2009-0607-MWD-E	PCW
Respondent	City of Eagle Pass Water Works System	Policy Revision 2 (September 2002)		
Case ID No.	37514	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN102183001			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			
Violation Number	1			
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010406002, Permit Conditions No. 2.d.			
Violation Description	Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on January 23, 2009. Specifically, a review of the Facility's records indicated that three unauthorized discharges of wastewater were reported from January 2008 through May 2008, as shown in the attached table.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			x
	Potential			
Percent				25%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
Percent				0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants a result of this violation.			
Adjustment				\$7,500
				\$2,500
Violation Events				
Number of Violation Events		3	Number of violation days	
		9		
mark only one with an x	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
Violation Base Penalty				\$7,500
Three single events are recommended.				
Good Faith Efforts to Comply		25.0% Reduction		
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary				
Ordinary	x			
N/A		(mark with x)		
Notes	The Respondent achieved compliance by May 16, 2008			
Violation Subtotal				\$5,625
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		\$162	Violation Final Penalty Total	
			\$9,975	
This violation Final Assessed Penalty (adjusted for limits)			\$9,975	

Economic Benefit Worksheet

Respondent: City of Eagle Pass Water Works System
Case ID No.: 37514
Reg. Ent. Reference No.: RN102183001
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 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)	16-Jan-2008	16-May-2008	0.33	\$5	\$99	\$104
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	16-Jan-2008	16-May-2008	0.33	\$58	n/a	\$58
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to replace damaged equipment, and to clean and disinfect affected areas. The date required is the date of the first discharge. The final date is the date of compliance.

Avoided Costs

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

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

\$8,000

TOTAL

\$162

UNAUTHORIZED DISCHARGE TABLE
City of Eagle Pass Water Works System
RN102183001
Docket No. 2009-0607-MWD-E

Date	Locations	Amount Discharged (gallons)	Description
1/16/2008	Wastewater treatment facility	4,000	Clarifier overflowed while replacing the telescopic valves. Sludge was discharged through the outfall into the receiving waters.
3/6/2008	Wastewater treatment facility	7,000	Clarifier on tank number two clogged up and sludge was discharged through the outfall into the receiving waters.
5/16/2008	Wastewater treatment facility	4,000	Inflow, infiltration, and pump and power failure caused by thunderstorms, resulting in a discharge of sludge through the outfall into the receiving waters.

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602520165	City of Eagle Pass Water Works System	Classification: AVERAGE	Rating: 2.21
Regulated Entity:	RN102183001	CITY OF EAGLE PASS	Classification: AVERAGE	Site Rating: 0.62
ID Number(s):	WASTEWATER	PERMIT		WQ0010406002
	WASTEWATER	PERMIT		TPDES0107492
	WASTEWATER	PERMIT		TX0107492
	WASTEWATER	PERMIT		TX0027651000
	WASTEWATER LICENSING	LICENSE		WQ0010406002

Location: Farm-to-Market Road 1021 approximately five miles southeast of the intersection of Farm-to-Market Road 375 and Farm-to-Market Road 1021 in Maverick County, Texas

TCEQ Region: REGION 16 - LAREDO
 Date Compliance History Prepared: April 10, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: March 27, 2004 to March 27, 2009

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

Name: Steve Villatoro Phone: 512-239-4930

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	04/22/2004	(323617)
2	05/14/2004	(323619)
3	06/21/2004	(323621)
4	08/12/2004	(364742)
5	08/24/2004	(364743)
6	09/08/2004	(364744)
7	10/22/2004	(364745)
8	11/24/2004	(364746)
9	12/20/2004	(388905)
10	01/24/2005	(388906)
11	02/22/2005	(388903)
12	03/21/2005	(388904)

13	04/20/2005	(446773)
14	04/21/2005	(371510)
15	05/20/2005	(446774)
16	06/17/2005	(446775)
17	07/22/2005	(446776)
18	07/22/2005	(446780)
19	08/23/2005	(446777)
20	09/21/2005	(446778)
21	10/24/2005	(446779)
22	11/21/2005	(490514)
23	12/21/2005	(490515)
24	01/24/2006	(490516)
25	02/06/2006	(451326)
26	02/21/2006	(490512)
27	03/20/2006	(490513)
28	04/24/2006	(505360)
29	05/23/2006	(505361)
30	06/21/2006	(505362)
31	07/07/2006	(505363)
32	08/16/2006	(527640)
33	08/16/2006	(527641)
34	09/25/2006	(527642)
35	10/25/2006	(588043)
36	11/27/2006	(588044)
37	12/27/2006	(588045)
38	01/23/2007	(588046)
39	02/23/2007	(588038)
40	03/22/2007	(588039)
41	04/16/2007	(588040)
42	05/29/2007	(588041)
43	06/25/2007	(588042)
44	07/23/2007	(605307)
45	08/21/2007	(605308)
46	09/24/2007	(605309)
47	10/02/2007	(607419)
48	01/01/2008	(676617)
49	01/09/2008	(629145)
50	01/09/2008	(629146)
51	02/21/2008	(676615)
52	03/24/2008	(676616)
53	03/24/2008	(676618)
54	03/24/2008	(676619)
55	05/07/2008	(695151)
56	05/30/2008	(681547)
57	06/23/2008	(695152)
58	06/23/2008	(695153)
59	08/22/2008	(687631)
60	09/10/2008	(716637)
61	11/10/2008	(720867)
62	12/01/2008	(732099)
63	12/01/2008	(732101)
64	12/11/2008	(732098)
65	12/11/2008	(732100)
66	03/06/2009	(737359)

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

Date: 01/31/2005 (388903)

CN602520165

Self Report? YES

Classificatio 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 (490515) CN602520165
 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: 05/31/2006 (505362) CN602520165
 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: 08/10/2007 (568185) CN602520165
 Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121
 Description: Failure to prevent an unauthorized discharge from the facility.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125
 Description: Failure to submit proper notification of an unauthorized discharge to the TCEQ
 Compliance Monitoring (MC 224) Team In Austin.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125
 Description: Failure to provide proper operation and maintenance to the chlorine contact chamber.
 Date: 09/30/2007 (629146) CN602520165
 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: 10/02/2007 (607419) CN602520165
 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: 01/31/2008 (676615) CN602520165
 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: 02/29/2008 (676616) CN602520165
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2008 (695151) CN602520165
 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: 04/30/2008 (716637) CN602520165
 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: 07/23/2008 (687631) CN602520165
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain process control records.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.6
 30 TAC Chapter 319, SubChapter A 319.9(c)

Description: Failure to maintain Quality Assurance/Quality Control records for temperature verification of in house laboratory samples for Biochemical Oxygen Demand.
Date: 07/31/2008 (732098) CN602520165
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: 08/22/2008 (687631) CN602520165
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125
TPDES WQ0010406002 PERMIT

Description: Failure to notify applicable Texas Commission on Environmental Quality (TCEQ) Regional office within 24 hours of becoming aware of an unauthorized discharge.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter C 319.302
Description: Failure to submit notification to the appropriate local government official and the local media of a wastewater discharge greater than 100,000 gallons within but no later than 24 hours of becoming aware of the discharge.

Date: 11/10/2008 (720867) CN602520165
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

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 EAGLE PASS WATER
WORKS SYSTEM
RN102183001**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0607-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 Eagle Pass Water Works System ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Repondent owns and operates wastewater treatment facility with an associated collection system located on Farm-to-Market Road 1021 approximately five miles southeast of the

intersection of Farm-to-Market Road 375 and Farm-to-Market Road 1021 in Maverick County, (the "System").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on January 23, 2009, TCEQ staff documented the following unauthorized discharges from the System's Non-compliance Notifications:

UNAUTHORIZED DISCHARGE TABLE			
Date	Locations	Amount Discharged (gallons)	Description
1/16/2008	Wastewater treatment facility	4,000	Clarifier overflowed while replacing the telescopic valves. Sludge was discharged through the outfall into the receiving waters.
3/6/2008	Wastewater treatment facility	7,000	Clarifier on tank number two clogged up and sludge was discharged through the outfall into the receiving waters.
4/4/2008	Intersection of Highway 277 and Daisy Diaz Street	600	Clogged main line. Discharge of untreated wastewater through the manhole into receiving waters.
5/16/2008	Wastewater treatment facility	4,000	Inflow, infiltration, and pump and power failure caused by thunderstorms, resulting in a discharge of sludge through the outfall into the receiving waters.
7/12/2008	River Lift Station	3,500,000	Transfer switch was damaged by irregular voltage causing a power failure. Discharge of untreated wastewater through the lift station into the receiving waters.

4. The Respondent received notice of the violations on March 9, 2009.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures in the System:

CORRECTIVE ACTION TABLE		
Date	Locations	Description of Corrective Action
1/16/2008	Wastewater treatment facility	Removed and properly disposed of sludge.
3/6/2008	Wastewater treatment facility	Cleared the blockage in the clarifier and removed and properly disposed of sludge.
4/4/2008	Intersection of Highway 277 and Daisy Diaz Street	Cleaned the main line and disinfected the affected area with sodium hypochlorite.
5/16/2008	Wastewater treatment facility	Repaired pump and cleaned and disinfected the affected area.
7/14/2008	River Lift Station	Replaced the transfer switch and cleaned and disinfected the affected area with sodium hypochlorite.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, 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. WQ0010406002, Permit Conditions No. 2.d.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Twenty-Four Thousand Six Hundred Five Dollars (\$24,605) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Twenty-Four Thousand Six Hundred Five Dollar (\$24,605) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Four Thousand Six Hundred Five Dollars (\$24,605) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Eagle Pass Water Works System, Docket No. 2009-0607-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 Repondent. The Repondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the System operations referenced in this Agreed Order.

3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. 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.
7. 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.

City of Eagle Pass Water Works System
DOCKET NO. 2009-0607-MWD-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Siddle
For the Executive Director

10/3/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Eagle Pass Water Works System. I am authorized to agree to the attached Agreed Order on behalf of City of Eagle Pass Water Works System, 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 Eagle Pass Water Works System 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

Francisco A. Martinez
Signature

9/29/09
Date

FRANCISCO A. MARTINEZ
Name (Printed or typed)
Authorized Representative of
City of Eagle Pass Water Works System

ASST. GEN. MGR.
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.

