

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2009-1256-MWD-E **TCEQ ID:** RN101453942 **CASE NO.:** 38116**RESPONDENT NAME:** City of Petersburg

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 Petersburg, located approximately one mile southeast of intersection of Farm-to-Market Roads 54 and 789, east of Petersburg, Hale County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Ms. Marie Parr, City Manager, City of Petersburg, P.O. Box 326, Petersburg, Texas 79250 The Honorable Darin Greene, Mayor, City of Petersburg, P.O. Box 326, Petersburg, Texas 79250 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: July 1, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 4, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to operate and maintain the treatment facility to achieve optimum efficiency of treatment capability [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TCEQ Permit No. 10246001, Special Provisions No. 3].</p> <p>2) Failure to maintain a minimum of two feet of freeboard in the holding ponds [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. 10246001, Special Provisions No. 7].</p>	<p>Total Assessed: \$2,300</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: \$2,300</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:</p> <p>a. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Remove cattails, weeds, and sludge from the oxidation ponds and begin operating and maintaining the oxidation ponds to achieve optimum efficiency of treatment capability; and</p> <p>ii. Reconstruct the berms on each of the oxidation/holding ponds and maintain a minimum of two feet of freeboard within the pond system.</p> <p>b. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. and a.ii.</p>

Additional ID No(s): 0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	13-Jul-2009	Screening	16-Jul-2009	EPA Due	
	PCW	6-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Petersburg		
Reg. Ent. Ref. No.	RN101453942		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38116	No. of Violations	2
Docket No.	2009-1256-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merrilee Hupp
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 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	\$1,083
Approx. Cost of Compliance	\$15,000

*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 16-Jul-2009

Docket No. 2009-1256-MWD-E

PCW

Respondent City of Petersburg

Policy Revision 2 (September 2002)

Case ID No. 38116

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101453942

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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)	3	15%
	Other written NOVs	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) 15%

>> 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

Respondent received three NOVs with same or similar violations as in current case.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

<p>Screening Date 16-Jul-2009 Respondent City of Petersburg Case ID No. 38116 Reg. Ent. Reference No. RN101453942 Media [Statute] Water Quality Enf. Coordinator Merrilee Hupp Violation Number 1</p>	<p>Docket No. 2009-1256-MWD-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i></p>																			
<p>Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TCEQ Permit No. 10246001, Special Provisions No. 3</p>																				
<p>Violation Description Failed to operate and maintain the treatment facility to achieve optimum efficiency of treatment capability. Specifically, weeds and a large number of cattails were found growing within the oxidation ponds and along the pond berms. Sludge had accumulated in the first treatment pond and was visible at the surface. Sludge in the second treatment pond was very near the surface around the inflow area.</p>																				
<p>Base Penalty \$10,000</p>																				
<p>>> Environmental, Property and Human Health Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="2" style="width:10%;"></td> <td rowspan="2" style="width:10%;"></td> <td colspan="3" style="text-align:center">Harm</td> <td rowspan="2"></td> </tr> <tr> <td style="width:15%;">Major</td> <td style="width:15%;">Moderate</td> <td style="width:15%;">Minor</td> </tr> <tr> <td rowspan="2" style="text-align:center">OR</td> <td>Actual</td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align:right">Percent <input type="text" value="10%"/></td> </tr> <tr> <td>Potential</td> <td></td> <td style="text-align:center">x</td> <td></td> </tr> </table>				Harm				Major	Moderate	Minor	OR	Actual				Percent <input type="text" value="10%"/>	Potential		x	
				Harm																
		Major	Moderate	Minor																
OR	Actual				Percent <input type="text" value="10%"/>															
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<p>Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.</p>																				
<p>Adjustment \$9,000</p>																				
<p>Violation Events</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:40%;">Number of Violation Events <input type="text" value="1"/></td> <td style="width:20%;"></td> <td style="width:40%;">Number of violation days <input type="text" value="16"/></td> </tr> <tr> <td rowspan="7" style="vertical-align: middle;"> mark only one with an x </td> <td>daily</td> <td><input type="text"/></td> </tr> <tr> <td>weekly</td> <td><input type="text"/></td> </tr> <tr> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td>quarterly</td> <td style="text-align:center">x</td> </tr> <tr> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td>single event</td> <td><input type="text"/></td> </tr> </table>		Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="16"/>	mark only one with an x	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	
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<p>Violation Base Penalty \$1,000</p>																				
<p>One quarterly event is recommended from the investigation date (July 1, 2009) to the screening date (July 16, 2009).</p>																				
<p>Good Faith Efforts to Comply</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="2" style="width:30%;"></td> <td colspan="2" style="text-align:center">0.0% Reduction</td> <td rowspan="2"></td> </tr> <tr> <td style="width:35%;">Before NOV</td> <td style="width:35%;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="3" style="text-align:right">Violation Subtotal <input type="text" value="\$1,000"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td style="text-align:center">x</td> <td style="text-align:center">(mark with x)</td> </tr> </table>			0.0% Reduction			Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Violation Subtotal <input type="text" value="\$1,000"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)			
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N/A	x	(mark with x)																		
<p>Notes The Respondent does not meet the good faith criteria for this violation.</p>																				
<p>Violation Subtotal \$1,000</p>																				
<p>Economic Benefit (EB) for this violation <input type="text" value="\$637"/> Statutory Limit Test</p>																				
<p>Estimated EB Amount \$637 Violation Final Penalty Total \$1,150</p>																				
<p>This violation Final Assessed Penalty (adjusted for limits) \$1,150</p>																				

Economic Benefit Worksheet

Respondent City of Petersburg
Case ID No. 38116
Reg. Ent. Reference No. RN101453942
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
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	\$10,000	20-Feb-2009	31-May-2010	1.27	\$637	n/a	\$637
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to remove wastewater from the first two ponds to allow removal of sludge, weeds, and cattails in sufficient quantities to ensure optimal and efficient treatment. Date required is the date the violation was first documented at the Facility and final date is the expected 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 TOTAL
\$10,000 \$637

Screening Date 16-Jul-2009 **Docket No.** 2009-1256-MWD-E **PCW**
Respondent City of Petersburg *Policy Revision 2 (September 2002)*
Case ID No. 38116 *PCW Revision October 30, 2009*
Reg. Ent. Reference No. RN101453942
Media [Statute] Water Quality
Enf. Coordinator Merrilee Hupp
Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. 10246001, Special Provisions No. 7
Violation Description Failed to maintain a minimum of two feet of freeboard within the pond system.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 16

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (July 1, 2009) to the screening date (July 16, 2009).

Good Faith Efforts to Comply

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$446

Statutory Limit Test

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

Economic Benefit Worksheet

Respondent City of Petersburg
Case ID No. 38116
Reg. Ent. Reference No. RN101453942
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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	\$5,000	20-Feb-2009	31-May-2010	1.27	\$21	\$425	\$446
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

Estimated cost to reconstruct and build up berms to attain at least two feet of freeboard after vegetation and sludge are removed from ponds (covered under economic benefit for Violation No. 1). Date required is the date the violation was first documented and final date is the expected 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

\$5,000

TOTAL

\$446

Compliance History Report

Customer/Respondent/ Owner-Operator: CN600638886 City Of Petersburg Classification: AVERAGE Rating: 2.58
Regulated Entity: RN101463942 CITY OF PETERSBURG Classification: AVERAGE Site Rating: 1.73
ID Number(s): WASTEWATER PERMIT WQ0010246001
WASTEWATER LICENSING LICENSE WQ0010246001
SLUDGE REGISTRATION 22458
Location: one mile SE of the intersec. of FM 54 & 789, E. of Petersburg, Hale Co., Tx.
TCEQ Region: REGION 02 - LUBBOCK
Date Compliance History Prepared: August 05, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 04, 2004 to August 05, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee Hupp Phone: 512-239-4490

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 12/08/2004 (343527)

2 01/04/2005 (345960)

3 03/29/2005 (375688)

4 05/26/2005 (379577)

5 12/04/2007 (609661)

6 02/19/2008 (618395)

7 05/23/2008 (680118)

8 02/20/2009 (727014)

9 05/18/2009 (745370)

10 07/08/2009 (760829)

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

Date: 12/07/2007 (609661)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(i)

Section VI, Special Provision 3 PERMIT

Description: Failure to properly maintain pond no. 1.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to calibrate secondary flow measuring device annually.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)

30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to maintain calibration log for pH meter.

Self Report? NO Classification: Minor

Citation: IV, B, Monitoring Requirements PERMIT

Description: Failure to properly maintain flow readings as required by the permit.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.123

30 TAC Chapter 305, SubChapter F 305.125

Description: Failure to comply with an agreed compliance plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

VI, Special Provision PERMIT

Description: Failure to post signs at the effluent disposal / irrigation area stating the water is from a contaminated source and "Do not drink the water" In English and Spanish with the red slash superimposed over the international symbol for drinking water.

Date: 02/19/2008 (618395)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(6)

30 TAC Chapter 317 317.4(i)

Section VI, Special Provision 3 PERMIT

Description: Failure to properly maintain pond no. 1.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.123

30 TAC Chapter 305, SubChapter F 305.125

Description: Failure to comply with an agreed compliance plan.

Date: 02/20/2009 (727014)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

IV. A. Effluent Limitations PERMIT

Description: Failure to meet self-monitored effluent quality Biochemical Oxygen Demand (BOD) limitations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

VI. Special Provision 7. PERMIT

Description: Failure to maintain at least two feet of freeboard for oxidation and holding ponds.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

VI. Special Provision 3. PERMIT

Description: Failure to maintain vegetation within the holding ponds.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(i)

Section VI, Special Provision 3 PERMIT

Description: Failure to maintain and operate the treatment facility in order to achieve optimum efficiency regarding sludge accumulation within the first two treatment ponds.

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 PETERSBURG
RN101453942**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1256-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 the City of Petersburg (“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 facility located approximately one mile southeast of intersection of Farm-to-Market Roads 54 and 789, east of Petersburg in Hale 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 an investigation on July 1, 2009, TCEQ staff documented weeds and a large number of cattails growing within the oxidation ponds and along the pond berms. Sludge had accumulated in the first treatment pond and was visible at the surface. Sludge in the second treatment pond was very near the surface around the inflow area.
4. During an investigation on July 1, 2009, TCEQ staff documented multiple areas where there was not at least two feet of freeboard within the pond system.
5. The City received notice of the violations on July 9, 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 operate and maintain the treatment facility to achieve optimum efficiency of treatment capability, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TCEQ Permit No. 10246001, Special Provisions No. 3.
3. As evidenced by Findings of Fact No. 4, the City failed to maintain a minimum of two feet of freeboard in the holding ponds, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. 10246001, Special Provisions No. 7.
4. 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.
5. An administrative penalty in the amount of Two Thousand Three Hundred Dollars (\$2,300) 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 Two Thousand Three Hundred Dollar (\$2,300) 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 Two Thousand Three Hundred Dollars (\$2,300) as set forth in Section II, Paragraph 5 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 Petersburg, Docket No. 2009-1256-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 undertake the following technical requirements:

- a. Within 90 days after the effective date of this Agreed Order:
 - i. Remove cattails, weeds, and sludge from the oxidation ponds and begin operating and maintaining the oxidation ponds to achieve optimum efficiency of treatment capability; and
 - ii. Reconstruct the berms on each of the oxidation/holding ponds and maintain a minimum of two feet of freeboard within the pond system.
- b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i and 2.a.ii. 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
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

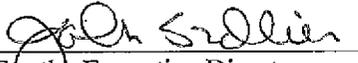
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering 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

Date 10/20/2009

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Petersburg. I am authorized to agree to the attached Agreed Order on behalf of the City of Petersburg, 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, the City of Petersburg 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

Date 9/1/09

DARIN GREENE

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

Title MAYOR

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.