

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1386-MWD-E TCEQ ID: RN102342128 CASE NO.: 36416

RESPONDENT NAME: City of Willow Park

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 Willow Park WWTP, located approximately three miles southeast of the intersection of Interstate Highway 20 and Farm-to-Market Road 5, approximately 1.6 miles southwest of the intersection of Farm-to-Market Road 1187 and Farm-to-Market Road 5, Parker County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 December 15, 2008. 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; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Marvin Glasgow, Mayor, City of Willow Park, 101 West Stage Coach Trail, Willow Park, Texas 76087 Ms. Candice J. Scott, City Administrator, City of Willow Park, 101 West Stage Coach Trail, Willow Park, Texas 76087 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 13, 2008</p> <p>Date of NOV/NOE Relating to this Case: July 14, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits for total chlorine residual and biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013759001, Effluent Limitations and Monitoring Requirements A].</p> <p>2) Failure to properly operate and maintain all facilities and systems of treatment and control [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0013759001, Special Provisions No. 3].</p>	<p>Total Assessed: \$2,800</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: \$2,800</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 Order 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 30 days after the effective date of this Agreed Order;</p> <p>i. Clean the bar screen and remove and properly dispose of the excess solids in the treatment units; and</p> <p>ii. Develop and implement a solids management plan to ensure the Facility is properly operated and maintained in order to achieve optimum efficiency of treatment capability.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a;</p> <p>c. Within 120 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013759001, 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 three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0013759001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	21-Jul-2008			
	PCW	20-Aug-2008	Screening	20-Aug-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Willow Park
Reg. Ent. Ref. No.	RN102342128
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36416	No. of Violations	2
Docket No.	2008-1386-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	\$2,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	40.0% Enhancement	Subtotals 2, 3, & 7	\$800
---------------------------	-------------------	--------------------------------	-------

Notes The penalty is enhanced due to four NOVs with same/similar violations and one final agreed order containing a denial of liability.

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 \$662
 Approx. Cost of Compliance \$7,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,800
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
---	------	-------------------	--

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$2,800
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,800
-----------------------------------	-------------------------------	---------

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	\$2,800
------------------------	---------

Screening Date 20-Aug-2008

Docket No. 2008-1386-MWD-E

PCW

Respondent City of Willow Park

Policy Revision 2 (September 2002)

Case ID No. 36416

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102342128

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>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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) 40%

>> **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 four NOVs with same/similar violations and one final agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 20-Aug-2008	Docket No. 2008-1386-MWD-E	PCW
Respondent City of Willow Park	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36416	<small>PCW Revision June 12, 2008</small>	
Reg. Ent. Reference No. RN102342128		
Media [Statute] Water Quality		
Enf. Coordinator Steve Villatoro		
Violation Number <input type="text" value="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. WQ0013759001, Effluent Limitations and Monitoring Requirements A	
Violation Description	Failed to comply with permit effluent limits, as documented during an investigation conducted on June 13, 2008 and shown in the attached table.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>		<input type="text"/>
				Percent <input type="text" value="10%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes 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 as a result of this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<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

One quarterly event is recommended.

Good Faith Efforts to Comply Reduction

	<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>

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

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 Willow Park
Case ID No. 36416
Reg. Ent. Reference No. RN102342128
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	3-Apr-2008	31-Jul-2009	1.33	\$22	\$442	\$464
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to determine cause of non-compliance and to implement corrective actions. Date required is the first date of noncompliance. 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

\$464

Screening Date 20-Aug-2008	Docket No. 2008-1386-MWD-E	PCW		
Respondent City of Willow Park	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36416	<small>PCW Revision June 12, 2008</small>			
Reg. Ent. Reference No. RN102342128				
Media [Statute] Water Quality				
Enf. Coordinator Steve Villatoro				
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(5) and TCEQ Permit No. WQ0013759001, Special Provisions No. 3			
Violation Description	Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, the investigator observed debris on the bar screen, a large mass of solids in the aeration basin, that the water in the clarifier was very turbid, and the chlorine contact chamber contained excessive solids.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	x	<input type="text"/>
				Percent <input type="text" value="10%"/>
>> Programmatic Matrix				
			Falsification	
			Major	
			Moderate	
			Minor	
			Percent <input type="text" value="0%"/>	
Matrix Notes	Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.			
Adjustment			\$9,000	
			\$1,000	
Violation Events				
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="68"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One quarterly event is recommended from investigation date (June 13, 2008) to screening date (August 20, 2008).				
Good Faith Efforts to Comply		0.0% Reduction	\$0	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
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		Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$198"/>		Violation Final Penalty Total <input type="text" value="\$1,400"/>		
This violation Final Assessed Penalty (adjusted for limits)			\$1,400	

Economic Benefit Worksheet

Respondent: City of Willow Park
Case ID No.: 36416
Reg. Ent. Reference No.: RN102342128
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,500	13-Jun-2008	31-Jul-2009	1.13	\$9	\$189	\$198
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean the bar screen, and to remove and properly dispose of excess solids in the treatment units. Also included is cost to develop a solids management plan to ensure the Facility is operated to achieve optimum efficiency of treatment capability. Date required is the investigation date and final date is date of expected 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	\$2,500	TOTAL	\$198
----------------------------	---------	--------------	-------

EFFLUENT VIOLATION TABLE		
City of Willow Park		
TPDES Permit No. WQ0013759001		
Docket No. 2008-1386-MWD-E		
Dates	TCR Single Grab Conc.	BOD Single Grab Conc.
	Limit > 1.0 mg/L	Limit = 65 mg/L
Outfall 001A		
4/3/2008	c	82.0
4/11/2008	c	97.8
5/8/2008	c	78.0
5/15/2008	c	110.0
5/20/2008	0.9	137.0
5/22/2008	c	140.0
5/29/2008	c	97.0

conc. = concentration

mg/L = milligrams per liter

BOD = Biochemical Oxygen Demand

TCR = Total Chlorine Residual

Compliance History

Customer/Respondent/Owner-Operator: CN600666374 City of Willow Park Classification: AVERAGE Rating: 5.53
Regulated Entity: RN102342128 CITY OF WILLOW PARK Classification: AVERAGE Site Rating: 16.67
ID Number(s): WASTEWATER PERMIT WQ0013759001
WASTEWATER LICENSING LICENSE WQ0013759001
Location: located approximately three miles southeast of the intersection of Interstate Highway 20 and Farm-to-Market Road 5, approximately 1.6 miles southwest of the intersection of Farm-to-Market Road 1187 and Farm-to-Market Road 5. Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: August 19, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 18, 2003 to August 18, 2008
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 of the site during the compliance period? Yes
3. If Yes, who is the current owner? City of Willow Park
4. If Yes, who was/were the prior owner(s)? Deercreek Waterworks, Inc.
5. When did the change(s) in ownership occur? 8/17/2005

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: 02/25/2008 ADMINORDER 2007-1366-MWD-E
Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.350(j)
Rqmt Prov: Special Provisions No. 2 PERMIT
Description: Failure to ensure that an operator holding the required level of license or higher is available by telephone or pager seven days per week.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.6(b)(1)

Rqmt Prov: Special Provisions No. 3 PERMIT
Description: Failure to properly operate and maintain all facilities and systems of treatment and control. Specifically, the investigator observed that the drum on the chlorination system was empty.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)
Rqmt Prov: Standard Provisions No. 2.a. PERMIT
Description: Failure to notify the TCEQ of an unauthorized discharge within the required timeframes of 24 hours (oral notification) and five working days (written description) from the time the City became aware of the noncompliance.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
TWC Chapter 26 26.121(a)

Rqmt Prov: Standard Provisions No. 2.b. PERMIT
Description: Failure to prevent the unauthorized discharge of wastewater from the Facility.

- 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.)

N/A

1	02/17/2005	(350858)
2	01/12/2006	(437103)
3	06/23/2006	(467307)
4	04/26/2007	(556932)
5	06/13/2007	(562859)
6	12/12/2007	(611812)
7	01/07/2008	(613527)
8	04/23/2008	(646629)
9	07/18/2008	(685344)
10	07/31/2008	(686696)
11	08/14/2008	(699707)
12	08/14/2008	(688434)

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

Date: 04/27/2007 (556932)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)

Rqmt Prov: PERMIT Sludge, Section III (G), page 17.

Description: Failure to submit annual sludge report.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)

Rqmt Prov: PERMIT Standard Provisions, No. 2 (b), page 21.

Description: Failure to prevent the unauthorized discharge of wastewater from the treatment plant.

Self Report? NO Classification Moderate

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

Rqmt Prov: PERMIT Effluent Limitations, No. A, page 2.

Description: Failure to comply with the effluent permit limits for chlorine and BOD5.

Self Report? NO Classification Minor

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

Rqmt Prov: PERMIT Standard Provisions, No. 2 (c), page 21.

Description: Failure to submit noncompliance notifications for effluent violations that deviated from the permit limit by more than 40%.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 317 317.6(b)(1)
30 TAC Chapter 317 317.6(b)(1)(A)
30 TAC Chapter 317 317.6(b)(1)(B)
30 TAC Chapter 317 317.6(b)(1)(C)
30 TAC Chapter 317 317.6(b)(1)(D)
30 TAC Chapter 317 317.6(b)(1)(E)
30 TAC Chapter 317 317.6(b)(1)(F)
30 TAC Chapter 317 317.6(b)(1)(G)

Description: Failure to provide the necessary safety equipment in the building housing the chlorine gas cylinders.

Self Report? NO Classification Moderate

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

Rqmt Prov: PERMIT Standard Provisions, No. 2 (a), page 21.

Description: The wastewater treatment plant is adversely affected by I/I in the collection system.

Date: 12/13/2007 (611812)

Self Report? NO Classification Minor

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

Rqmt Prov: PERMIT WQ13759-001

Description: Failure to comply with the effluent permit limits for BOD5.

Date: 04/23/2008 (646629)

Self Report? NO Classification Moderate

Citation: TWC Chapter 26 26.121

Rqmt Prov: PERMIT WQ13759-001

Description: Failure to prevent the unauthorized discharge of wastewater from a lift station on March 27, 2008 and April 17, 2008.

Date: 04/24/2008 (653781)

Self Report? NO Classification Moderate

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

Rqmt Prov: PERMIT WQ13759-001

Description: Failure to comply with effluent permit limits for biological oxygen demand (BOD) and total chlorine residual (TCR).

Self Report? NO Classification Minor

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

Rqmt Prov: PERMIT WQ13759-001

Description: Failure to operate the treatment plant efficiently.

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 WILLOW PARK
RN102342128

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-1386-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 Willow Park ("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 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 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 three miles southeast of the intersection of Interstate Highway 20 and Farm-to-Market Road 5, approximately

1.6 miles southwest of the intersection of Farm-to-Market Road 1187 and Farm-to-Market Road 5 in Parker County, Texas (the "Facility").

2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. During an investigation on June 13, 2008, TCEQ staff documented the following from the Facility's daily operator log:

EFFLUENT VIOLATION TABLE		
Dates	TCR Single Grab Conc.	BOD Single Grab Conc.
	Limit > 1.0 mg/L	Limit = 65 mg/L
Outfall 001A		
4/3/2008	c	82.0
4/11/2008	c	97.8
5/8/2008	c	78.0
5/15/2008	c	110.0
5/20/2008	0.9	137.0
5/22/2008	c	140.0
5/29/2008	c	97.0

conc. = concentration
 mg/L = milligrams per liter
 BOD = Biochemical Oxygen Demand
 TCR = Total Chlorine Residual

4. During an investigation on June 13, 2008, TCEQ staff observed debris on the bar screen, a large mass of solids in the aeration basin, that the water in the clarifier was very turbid, and that the chlorine contact chamber contained excessive solids.
5. The City received notice of the violations on July 19, 2008.

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 TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013759001, Effluent Limitations and Monitoring Requirements A.
3. As evidenced by Findings of Fact No. 4, the City failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0013759001, Special Provisions No. 3.
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 Eight Hundred Dollars (\$2,800) 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 Eight Hundred Dollar (\$2,800) 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 Eight Hundred Dollars (\$2,800) 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 Willow Park, Docket No. 2008-1386-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 30 days after the effective date of this Agreed Order:
 - i. Clean the bar screen and remove and properly dispose of the excess solids in the treatment units; and
 - ii. Develop and implement a solids management plan to ensure the Facility is properly operated and maintained in order to achieve optimum efficiency of treatment capability.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, using the certification language as described in Ordering Provision No. 2.c below.
- c. Within 120 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013759001, 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 three 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine 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:

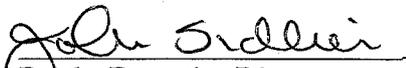
Water Quality Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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

12/15/08
Date

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

10/08/08
Date

Candice J. Scott

Name (Printed or typed)
Authorized Representative of
City of Willow Park

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.

Handwritten text at the top of the page, possibly a header or title.

Second line of handwritten text.

Third line of handwritten text.

Fourth line of handwritten text.

Fifth line of handwritten text.

Sixth line of handwritten text.

Seventh line of handwritten text.

Eighth line of handwritten text.

Ninth line of handwritten text.

Tenth line of handwritten text.

Final line of handwritten text at the bottom of the page.