

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1685-MWD-E **TCEQ ID:** RN101919181 **CASE NO.:** 36681
RESPONDENT NAME: City of Shiner

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
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 Shiner WWTP, located approximately one mile southeast of the intersection of United States Highway 90A and State Highway 95, Shiner, Lavaca 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 February 2, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Carlie Konkol, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Henry Kalich, Mayor, City of Shiner, P.O. Box 308, Shiner, Texas 77984 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: September 9, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 2, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010280001 Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$2,440</p> <p>Total Deferred: \$488 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,952</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>Corrective Actions Taken:</p> <p>The Executive recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. In June 2008, began adding additional enzymes to the Facility to assist in the treatment of waste; and</p> <p>b. By June 30, 2008, returned to compliance with permitted effluent limits.</p>

Additional ID No(s): WQ001028001, TX0026042



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	6-Oct-2008			
	PCW	20-Oct-2008	Screening	10-Oct-2008	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Shiner		
Reg. Ent. Ref. No.	RN101919181		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36681	No. of Violations	1
Docket No.	2008-1685-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Carlie Konkol
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	47.0% Enhancement	Subtotals 2, 3, & 7	\$940
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Notes: A 47% enhancement is recommended for having nine NOV's for self-reported effluent data and one NOV for non-similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$25
 Approx. Cost of Compliance: \$1,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,440
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$2,440
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,440
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DEFERRAL	20.0% Reduction	Adjustment	-\$488
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,952
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Screening Date 10-Oct-2008

Docket No. 2008-1685-MWD-E

PCW

Respondent City of Shiner

Policy Revision 2 (September 2002)

Case ID No. 36681

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101919181

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

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)	9	45%
	Other written NOVs	1	2%
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%
<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) 47%

>> 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

A 47% enhancement is recommended for having nine NOVs for self-reported effluent data and one NOV for non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

Screening Date 10-Oct-2008	Docket No. 2008-1685-MWD-E	PCW	
Respondent City of Shiner		<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36681		<small>PCW Revision June 12, 2008</small>	
Reg. Ent. Reference No. RN101919181			
Media [Statute] Water Quality			
Enf. Coordinator Carlie Konkol			
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. WQ0010280001, Effluent Limitations and Monitoring Requirements No. 1		
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review conducted on September 9, 2008. See attached table.		
	Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	Percent 10%
Potential	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Percent 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 the violation.		
	Adjustment	\$9,000	
			\$1,000
Violation Events			
	Number of Violation Events	2	Number of violation days
		152	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty \$2,000
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
	Two quarterly events are recommended.		
Good Faith Efforts to Comply			
	25.0% Reduction		\$500
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
Notes	The Respondent came into compliance by June 30, 2008.		
	Violation Subtotal		\$1,500
Economic Benefit (EB) for this violation			
	Estimated EB Amount	\$25	Statutory Limit Test
			Violation Final Penalty Total \$2,440
			This violation Final Assessed Penalty (adjusted for limits) \$2,440

Economic Benefit Worksheet

Respondent: City of Shiner
Case ID No.: 36681
Reg. Ent. Reference No.: RN101919181
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	31-Dec-2007	30-Jun-2008	0.50	\$25	n/a	\$25

Notes for DELAYED costs

The estimated cost for adding enzymes to treat the waste. Date required is the date the noncompliance started and the final date is the date the Respondent came into 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

\$1,000

TOTAL

\$25

Effluent Violation Table
City of Shiner
TPDES Permit No. 10280001
Docket No. 2008-1685-MWD-E

Permitted Effluent Limits	Monitoring Period End Date				
	12/31/2007	01/31/2008	02/29/2008	04/30/2008	5/31/2008
TSS Daily Average Concentration 15 mg/L	26	27	17	31	25
TSS Daily Maximum 40 mg/L	49	44	C	50	C

TSS – Total Suspended Solids
mg/L – Milligrams per Liter
C – Compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600653315 City of Shiner	Classification: AVERAGE	Rating: 2.36
Regulated Entity:	RN101919181 CITY OF SHINER WWTP	Classification: AVERAGE	Site Rating: 0.43

ID Number(s):	WASTEWATER	PERMIT	WQ0010280001
	WASTEWATER	PERMIT	TPDES0026042
	WASTEWATER	PERMIT	TX0026042
	WASTEWATER LICENSING	LICENSE	WQ0010280001

Location:	LOCATED APPROXIMATELY ONE MILE SOUTHEAST OF THE INTERSECTION OF U.S. HIGHWAY 90A AND STATE HIGHWAY 95 IN THE CITY OF SHINER IN LAVACA COUNTY, TEXAS	Rating Date: 9/1/2008 Repeat Violator: NO
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TCEQ Region:	REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared:	October 10, 2008
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	October 10, 2003 to October 10, 2008

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

Name:	Carlie Konkol	Phone:	(361) 825-3422
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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? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

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	10/20/2003	(301714)
2	11/17/2003	(301715)
3	12/15/2003	(301716)
4	01/16/2004	(301717)
5	02/17/2004	(301704)
6	03/17/2004	(301705)
7	04/19/2004	(301706)
8	05/18/2004	(354638)
9	06/16/2004	(354639)
10	07/16/2004	(354640)
11	08/09/2004	(354641)
12	09/16/2004	(354642)
13	10/18/2004	(354643)
14	11/17/2004	(354644)
15	12/06/2004	(383284)
16	01/14/2005	(383285)
17	02/09/2005	(383282)
18	03/17/2005	(383283)

19	04/22/2005	(421106)
20	05/23/2005	(421107)
21	06/17/2005	(421108)
22	07/11/2005	(442087)
23	08/17/2005	(442088)
24	09/19/2005	(442089)
25	10/09/2005	(470949)
26	11/18/2005	(470950)
27	12/15/2005	(470951)
28	01/13/2006	(470952)
29	02/16/2006	(470947)
30	03/15/2006	(470948)
31	04/14/2006	(499836)
32	05/15/2006	(499837)
33	06/19/2006	(499838)
34	07/13/2006	(521924)
35	08/11/2006	(521925)
36	09/15/2006	(521926)
37	10/18/2006	(546578)
38	11/15/2006	(515678)
39	11/16/2006	(546579)
40	12/20/2006	(546580)
41	01/10/2007	(578761)
42	02/20/2007	(578756)
43	03/19/2007	(578757)
44	04/16/2007	(578758)
45	05/18/2007	(578759)
46	06/15/2007	(578760)
47	06/26/2007	(562403)
48	07/16/2007	(602562)
49	08/28/2007	(602563)
50	09/17/2007	(602564)
51	10/15/2007	(620810)
52	11/19/2007	(620811)
53	12/12/2007	(620812)
54	01/17/2008	(673020)
55	02/19/2008	(673019)
56	03/18/2008	(691089)
57	04/18/2008	(691090)
58	05/21/2008	(691091)
59	10/02/2008	(702449)

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

Date:	07/31/2005	(442088)	Classification:	Moderate
Self Report?	YES			
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:	11/15/2006	(515678)	Classification:	Minor
Self Report?	NO			
Citation:	30 TAC Chapter 317 317.4(a)(8)			
Rqmt Prov:	PERMIT WQ0010280-001			
Description:	Failure to test the backflow prevention device annually.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)			
Rqmt Prov:	PERMIT WQ0010280-001			
Description:	Failure to monitor the temperature of the refrigerator where samples			

Date: 02/28/2007 (578757)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (578758)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (578759)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007 (673020)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (673019)
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 (691089)
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 (691091)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008
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

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 SHINER
RN101919181**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-1685-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Shiner ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately one mile southeast of the intersection of United States Highway 90A and State Highway 95 in Shiner, Lavaca 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. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about October 7, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Four Hundred Forty Dollars (\$2,440) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Thousand Nine Hundred Fifty-Two Dollars (\$1,952) of

- the administrative penalty and Four Hundred Eighty-Eight Dollars (\$488) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. In June 2008, the City began adding additional enzymes to the Facility to assist in the treatment of waste; and
 - b. By June 30, 2008, returned to compliance with permitted effluent limits.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with the permitted effluent limitations, 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. WQ0010280001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 9, 2008 and indicated in the table below:

Effluent Violation Table					
Permitted Effluent Limits	Monitoring Period End Date				
	12/31/2007	01/31/2008	02/29/2008	04/30/2008	5/31/2008
TSS Daily Average Concentration 15 mg/L	26	27	17	31	25
TSS Daily Maximum 40 mg/L	49	44	C	50	C

TSS – Total Suspended Solids
mg/L – Milligrams per Liter
C – Compliant

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Shiner, Docket No. 2008-1685-MWD-E" to:

Financial Administration Division, Revenues Section
 Attention: Cashier's Office, MC 214
 Texas Commission on Environmental Quality
 P.O. Box 13088
 Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

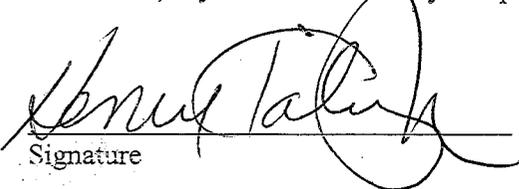
Date 1/9/2009

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

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

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

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



Signature

Date 11/19/08

HENRY KALICH
Name (Printed or typed)
Authorized Representative of
City of Shiner

MAYOR
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.

