

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-0407-MWD-E TCEQ ID: RN102807864 CASE NO.: 33019
RESPONDENT NAME: TOWN OF MUSTANG

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: Approximately 800 feet east of Interstate Highway 45 on Farm-to-Market Road 739, Navarro 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 October 13, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, Air Enforcement Section, MC R-4, (817) 588-5890 TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901 Respondent: Mr. Danny Parker, Mayor, Town of Mustang, P.O. Box 325, Corsicana, Texas 75151 Respondent's Attorney: Mr. Marty D. Price, Esq., Attorney and Counselor at Law, 2514 Boll Street, Dallas, Texas 75204; Mr. Ronald L. Clower, Esq., The Clower Law Office, 2900 Western Center Blvd., P.O. Box 162537, Fort Worth, Texas 76161</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 24, 2007</p> <p>Date of NOE Relating to this Case: February 28, 2007</p> <p>Background Facts: The EDPRP was filed on September 18, 2007. The Respondent filed an Answer requesting a hearing and the case was referred to SOAH. An evidentiary hearing was scheduled for July 10, 2008. The Respondent signed the Agreed Order on July 8, 2008.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>MWD:</p> <p>1) Failed to submit annual sludge reports for the reporting periods ending July 31, 2005 and July 31, 2006 [TPDES Permit No. WQ0011516001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17)].</p> <p>2) Failed to have flow measuring device properly installed, operated, and maintained [TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements, No. 5 and 30 TEX. ADMIN. CODE § 305.125(1)].</p> <p>3) Failed to comply with permit effluent limits for biochemical oxygen demand (5-day) (BOD5), total suspended solids (TSS), flow, and chlorine residual (Cl2) [TPDES Permit No. WQ0011516001, Effluent Limitations and Monitoring Requirements, Nos. 1 and 2, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p> <p>4) Failed to provide non-compliance notification as required [TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements, No. 7 and 30 TEX. ADMIN. CODE § 305.125(1)].</p> <p>5) Failed to ensure an adequately licensed individual operates the Facility [30 TEX. ADMIN. CODE §§ 30.331(b) and 30.350(d)].</p>	<p>Total Assessed: \$20,000</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$730/\$19,270</p> <p>The Respondent has paid \$730 of the administrative penalty. The remaining amount of \$19,270 shall be payable in 47 monthly payments of \$410 each.</p> <p>Site Compliance History Classification:</p> <p><input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification:</p> <p><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: Three enforcement actions with the same or similar type of violations in the past five years.</p>	<p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1) Immediately, begin providing non-compliance notifications and begin notifying the TCEQ of any unauthorized discharges.</p> <p>2) Within 15 days:</p> <p>a) Submit annual sludge reports for the reporting periods ending July 31, 2005 and July 31, 2006; and</p> <p>b) Properly install, operate, and maintain the flow measuring device at the Facility.</p> <p>3) Within 30 days, ensure that a properly licensed individual operates the Facility</p> <p>4) Within 45 days, develop and implement operational and maintenance procedures to prevent future unauthorized discharges.</p> <p>5) Within 60 days, submit written certification to demonstrate compliance with permit effluent limitations and monitoring requirements, and these Ordering Provisions.</p>

RESPONDENT NAME: TOWN OF MUSTANG
DOCKET NO.: 2007-0407-MWD-E

6) Failed to prevent unauthorized discharges [30 TEX. ADMIN. CODE § 305.125(4) and (5) and TEX. WATER CODE § 26.121].

7) Failed to notify the TCEQ of the unauthorized discharges [30 TEX. ADMIN. CODE § 305.125(9)].



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

DATES	Assigned	12-Mar-2007	Screening	20-Mar-2007	EPA Due	
	PCW	20-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Town of Mustang
Reg. Ent. Ref. No.	RN102807864
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33019	No. of Violations	8	
Docket No.	2007-0407-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.	
Multi-Media		EC's Team	EnforcementTeam 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$31,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 180% Enhancement Subtotals 2, 3, & 7 \$55,800

Notes: The Respondent was issued four NOV's and self-reported 28 months of effluent violations with the same or similar type of violations, a 1660 Agreed Order.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

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

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

Total EB Amounts \$225 0% Enhancement* Subtotal 6 \$0
Approx. Cost of Compliance \$2,950 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$86,800

OTHER FACTORS AS JUSTICE MAY REQUIRE -77% Adjustment -\$66,800

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Recommend reduction for other factors as justice may require.

Final Penalty Amount \$20,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$20,000

DEFERRAL 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 \$20,000

Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	32	160%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments 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) 180%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued four NOV's and self-reported 28 months of effluent violations with the same or similar type of violations, a 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 180%

Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011516001, Sludge Provisions, and 30 Tex. Admin. Code § 305.125(17)

Violation Description Failed to submit annual sludge reports for the reporting periods ending 07/31/2005 and 07/31/2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="checkbox"/>
single event	<input type="text"/>	

Violation Base Penalty

Two annual events are recommended.

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: Town of Mustang
Case ID No.: 33019
Reg. Ent. Reference No.: RN102807864
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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	1-Sep-2005	1-Nov-2007	2.2	\$54	n/a	\$54

Notes for DELAYED costs

Estimated cost to prepare and submit the required sludge reports. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$54
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Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements, No. 5, and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to have a flow measuring device properly installed, operated, and maintained. Specifically, during the 01/24/2007 investigation, the flow meter had been removed and was sent to the manufacturer for repairs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have flow measuring device(s) properly installed, operated and maintained could result in the release of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

55 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended. The penalty was calculated from the investigation date, January 24, 2007, to the screening date, March 20, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$645

This violation Final Assessed Penalty (adjusted for limits) \$645

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 33019
Reg. Ent. Reference No. RN102807864
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	24-Jan-2007	15-Nov-2007	0.8	\$1	\$27	\$28
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to have a properly installed, operated and maintained flow measuring device. Date Required is the investigation date, Final Date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$28
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Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s) TPDES Permit No. WQ0011516001, Effluent Limitations and Monitoring Requirements, No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) ("BOD5") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total Suspended Solids ("TSS") and flow values were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 31

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

One monthly event is recommended based on the month the maximum permitted limits were exceeded (07/06).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$3,226

This violation Final Assessed Penalty (adjusted for limits) \$3,226

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 33019
Reg. Ent. Reference No. RN102807864
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	1-Jul-2006	15-Jan-2008	1.5	\$15	n/a	\$15

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$200	TOTAL	\$15
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Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s) TPDES Permit No. WQ0011516001, Effluent Limitations and Monitoring Requirements, No. 1 and 2, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate BOD5 to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. TSS and chlorine residual values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 123

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the months the maximum permitted limits were exceeded (10/06, 11/06, 12/06, and 01/07).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,290

This violation Final Assessed Penalty (adjusted for limits) \$1,290

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 33019
Reg. Ent. Reference No. RN102807864
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

See violation No. 3.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 5

Rule Cite(s) TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements, No. 7, and 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to provide non-compliance notification as required. Specifically, discharge monitoring report ("DMR") data revealed BOD5 deviations for the months of 11/05, 01/06, 02/06, 04/06, 05/06, and 06/06; TSS deviations for the months of 01/06, 02/06, 03/06, 04/06, 05/06, 06/06, 07/06, 10/06, 11/06, and 12/06; and flow deviations for the months of 11/05, 12/05, and 07/06 which exceeded the permitted effluent limits by more than 40% and no non-compliance notifications were submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 12 425 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$12,000

Twelve single events are recommended for the months non-compliance notifications were not submitted.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$58

Violation Final Penalty Total \$7,742

This violation Final Assessed Penalty (adjusted for limits) \$7,742

Economic Benefit Worksheet

Respondent: Town of Mustang
Case ID No. 33019
Reg. Ent. Reference No. RN102807864
Media: Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$600	20-Dec-2005	1-Dec-2007	1.9	\$58	n/a	\$58

Notes for DELAYED costs

Estimated cost to submit the required non-compliance notifications. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$600	TOTAL	\$58
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Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 30.331(b) and 30.350(d)

Violation Description Failed to ensure a properly licensed individual to operate the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to ensure an adequately licensed individual to operate the facility could result in poor operation of the facility which in turn could result in the exposure of significant amounts of pollutants which would exceed levels that are protective of human health or the environment.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 55 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended. The penalty was calculated from the investigation date, January 24, 2007, to the screening date, March 20, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$3,226

This violation Final Assessed Penalty (adjusted for limits) \$3,226

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 33019
Reg. Ent. Reference No. RN102807864
Media Water Quality
Violation No. 6

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$50	4-Jan-2001	15-Dec-2007	6.9	\$17	n/a	\$17

Notes for DELAYED costs

Estimated cost to ensure that the Facility operator maintain a current license. Date Required is the operator's license expiration date, Final Date is the expected compliance date.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$50
TOTAL \$17

Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 305.125(4) and (5) and Tex. Water Code § 26.121

Violation Description

Failed to prevent unauthorized discharges. Specifically, during the 01/24/2007 investigation, it was documented that unauthorized discharges had occurred from the clean-out located within the collection system and from a leak from the influent pipe prior to the headworks.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to prevent unauthorized discharges resulted in the release of insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

2

2 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,000

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$47

Violation Final Penalty Total \$1,290

This violation Final Assessed Penalty (adjusted for limits) \$1,290

Economic Benefit Worksheet

Respondent Town of Mustang
 Case ID No. 33019
 Reg. Ent. Reference No. RN102807864
 Media Water Quality
 Violation No. 7

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	24-Jan-2007	1-Jan-2008	0.9	\$47	n/a	\$47

Notes for DELAYED costs

Estimated cost to repair and to provide additional oversight to alleviate and/or prevent future unauthorized discharges. Date Required is the investigation date, Final Date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000 TOTAL \$47

Screening Date 20-Mar-2007

Docket No. 2007-0407-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 33019

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 305.125(9)

Violation Description

Failed to notify the TCEQ of the discharges. Specifically, during the 01/24/2007 investigation, it was documented that the unauthorized discharges which occurred from the clean-out located within the collection system and from a leak from the influent pipe prior to the headworks were not reported to the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

2

2 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,000

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,290

This violation Final Assessed Penalty (adjusted for limits) \$1,290

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 33019
Reg. Ent. Reference No. RN102807864
Media Water Quality
Violation No. 8

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	24-Jan-2007	1-Jan-2008	0.9	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to to prepare and submit the required non-compliance reports. Date Required is the investigation date, Final Date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$100	TOTAL	\$5
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Compliance History

Customer/Respondent/Owner-Operator: CN600796221 TOWN OF MUSTANG Classification: AVERAGE Rating: 5.47
 Regulated Entity: RN102807864 TOWN OF MUSTANG MHP Classification: AVERAGE Site Rating: 5.47

ID Number(s): WASTEWATER PERMIT WQ0011516001
 WASTEWATER PERMIT TPDES0125199
 WASTEWATER LICENSING LICENSE WQ0011516001

Location: LOCATED APPROX. 800 FT EASTR OF I 45 ON FM 739 Rating Date: September 01 06 Repeat Violator: NO
 IN NAVARRO COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: March 08, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: March 08, 2002 to March 08, 2007

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.

Effective Date: 06/26/2006 ADMINORDER 2005-1503-MWD-E

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT

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

Classification: Moderate

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

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- 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 08/23/2002 (9206)
- 2 10/08/2002 (13430)
- 3 04/14/2004 (267288)
- 4 04/28/2004 (329228)
- 5 05/19/2004 (368206)
- 6 05/19/2004 (329226)
- 7 05/19/2004 (329227)
- 8 06/21/2004 (368207)
- 9 07/19/2004 (368208)

10 09/20/2004 (368209)
 11 10/15/2004 (273922)
 12 10/22/2004 (368210)
 13 11/17/2004 (339261)
 14 11/18/2004 (390775)
 15 11/22/2004 (390776)
 16 12/21/2004 (390777)
 17 03/10/2005 (349638)
 18 03/14/2005 (390774)
 19 04/13/2005 (428185)
 20 05/20/2005 (428186)
 21 06/21/2005 (428187)
 22 08/08/2005 (351168)
 23 08/22/2005 (448154)
 24 09/19/2005 (448155)
 25 10/21/2005 (493738)
 26 11/21/2005 (493739)
 27 01/06/2006 (493740)
 28 01/06/2006 (438014)
 29 02/08/2006 (493741)
 30 02/22/2006 (493736)
 31 03/23/2006 (493737)
 32 04/24/2006 (506944)
 33 05/22/2006 (506945)
 34 07/13/2006 (529081)
 35 07/26/2006 (529082)
 36 08/21/2006 (529083)
 37 09/25/2006 (529084)
 38 02/28/2007 (538044)

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

1 Date: 08/26/2002 (9206)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to adhere to permit parameters
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.6
 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to use EPA approved method for reading pH levels
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.6
 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to maintain required calibration records for chlorine meter
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: OP VI.3
 Description: Failure to maintain adequate operation and maintenance of wastewater treatment plant

2 Date: 01/31/2004 (329226)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

3 Date: 03/31/2004 (329228)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

4 Date: 04/13/2004 (267288)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.4
 Rqmt Prov: PERMIT WQ0011516

Description: Failure to monitor and record chlorine analysis result at least five days per week and dissolve oxygen once per week.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
 Rqmt Prov: PERMIT WQ0011516-001
 Description: Failure to analyze for BOD5 and TSS at least once each week.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to record effluent flow data at least five times per week.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Rqmt Prov: PERMIT WQ0011516
 Description: Failure to submit discharge monitoring reports to the Central Office for January and February 2004.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(d)[G]
 Rqmt Prov: PERMIT WQ0011516
 Description: Return Activated Sludge: Return pipe clogged and clarifier and chlorine contact chamber very turbid.
 5 Date: 04/30/2004 (368206)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 6 Date: 05/31/2004 (368207)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 7 Date: 06/30/2004 (368208)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 8 Date: 08/31/2004 (368209)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 9 Date: 09/30/2004 (368210)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 10 Date: 10/31/2004 (390776)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 11 Date: 11/19/2004 (339261)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317:317.4(d)[G]
 Description: Failure to maintain operation and maintenance of plant.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with effluent limits for TSS, BOD5 and DO.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to maintain calibration logs for chlorine readings.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
 Description: Failure to accurately complete the DMRs.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to submit noncompliance notification for effluent violations that deviate from the permit limits by 40%.
 12 Date: 11/30/2004 (390777)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 13 Date: 02/28/2005 (390774)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 14 Date: 03/31/2005 (428185)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 15 Date: 04/30/2005 (428186)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 16 Date: 05/31/2005 (428187)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 17 Date: 07/31/2005 (448154)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 18 Date: 08/31/2005 (448155)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 19 Date: 10/31/2005 (493739)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 20 Date: 11/30/2005 (493740)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 21 Date: 12/31/2005 (493741)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 22 Date: 01/06/2006 (438014)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)[G]
 Description: Failure to submit the annual sludge report, as required by the permit.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.6(b)(3)[G]
 Description: Failure to prevent trash and solids from collecting in the chlorine contact
 Self Report? NO Classification: Minor

	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to have flow measuring device properly installed, operated, and maintained including being tested annually by a certified technician.	
	Self Report?	NO	Classification: Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to comply with the maximum limit (4.0 mg/L) for total chlorine residual (TCR).	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to comply with BOD, TSS, and DO permit limitations.	
	Self Report?	NO	Classification: Moderate
23	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to provide noncompliance notification as required.	
	Date:	01/31/2006 (493736)	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
24	Date:	02/28/2006 (493737)	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
25	Date:	03/31/2006 (506944)	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
26	Date:	04/30/2006 (506945)	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
27	Date:	05/31/2006 (529081)	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
28	Date:	06/30/2006 (529082)	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
29	Date:	07/31/2006 (529083)	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
30	Date:	10/31/2006	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
31	Date:	11/30/2006	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	
32	Date:	12/31/2006	
	Self Report?	YES	Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	TWC Chapter 26 26.121(a)[G]	

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
TOWN OF MUSTANG;
RN102807864

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0407-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Town of Mustang ("the Town") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and the Town, represented by Marty Price of The Law Firm of Marty Price, presented this agreement to the Commission.

The Town 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 Town agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Town.

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

FINDINGS OF FACT

1. The Town owns and operates a wastewater treatment facility ("Facility") located at approximately 800 feet east of Interstate Highway 45 on Farm-to-Market Road 739 in Navarro County, Texas.
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas

Water Code.

3. During an investigation on January 24, 2007, a TCEQ investigator documented that the Town failed to submit annual sludge reports for the reporting periods ending July 31, 2005 and July 31, 2006.
4. During an investigation on January 24, 2007, a TCEQ investigator documented that the Town failed to have a flow measuring device properly installed, operated, and maintained. Specifically, the flow meter had been removed and was sent to the manufacturer for repairs.
5. During an investigation on January 24, 2007, a TCEQ investigator documented that the Town failed to comply with permit effluent limits for biochemical oxygen demand (5-Day) ("BOD5"), total suspended solids ("TSS"), flow, and chlorine residual ("Cl₂") as depicted in the table below.

EFFLUENT PARAMETER

Permit Limit

	BOD5 Daily Average	TSS Daily Average	TSS Single Grab	Flow	Maximum Chlorine Residual
<i>Month/Year</i>	20 mg/L	20 mg/L	65 mg/L	0.01 MGD	4 mg/L
Jul-06	26.8	117.3	324	0.01411	c
Oct-06	c	51.6	190	c	c
Nov-06	24.47	30.85	80	c	c
Dec-06	26.77	73.27	123	c	c
24-Jan-2007	c	c	c	c	> 5.0

MGD = million gallons per day

mg/L = milligrams per liter

c = compliant

6. During an investigation on January 24, 2007, a TCEQ investigator documented that the Town failed to provide non-compliance notification as required. Specifically, discharge monitoring report ("DMR") data revealed BOD5 deviations for the months of 11/05, 01/06, 02/06, 04/06, 05/06, and 06/06; TSS deviations for the months of 01/06, 02/06, 03/06, 04/06, 05/06, 06/06, 07/06, 10/06, 11/06, and 12/06; and flow deviations for the months of 11/05, 12/05, and 07/06 which exceeded the permitted effluent limits by more than 40% and no non-compliance notifications were submitted.

7. During an investigation on January 24, 2007, a TCEQ investigator documented that the Town failed to ensure a properly licensed individual to operate the Facility. Specifically, the operator's Class D license expired on January 4, 2001.
8. During an investigation on January 24, 2007, a TCEQ investigator documented that the Town failed to prevent unauthorized discharges. Specifically, it was documented that unauthorized discharges had occurred from the clean-out located within the collection system and from a leak from the influent pipe prior to the headworks.
9. During an investigation on January 24, 2007, a TCEQ investigator documented that the Town failed to notify the TCEQ of any unauthorized discharges. Specifically, the unauthorized discharges addressed in Findings of Fact No. 8 were never reported to the TCEQ.
10. The Town received notice of the violations on or about September 20, 2007.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, the Town is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and ch. 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, the Town violated Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011516001, Sludge Provisions, and 30 Tex. Admin. Code § 305.125(17) by failing to submit annual sludge reports for the reporting periods ending 07/31/2005 and 07/31/2006.
3. As evidenced by Finding of Fact No. 4, the Town violated TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements, No. 5, and 30 Tex. Admin. Code § 305.125(1) by failing to have a flow measuring device properly installed, operated, and maintained. Specifically, the flow meter had been removed and was sent to the manufacturer for repairs.
4. As evidenced by Finding of Fact No. 5, the Town violated TPDES Permit No. WQ0011516001, Effluent Limitations and Monitoring Requirements, No. 1 and 2, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a) by failing to comply with permit effluent limits for biochemical oxygen demand (5-Day) ("BOD5"), total suspended solids ("TSS"), flow, and chlorine residual ("Cl₂") as depicted in the table above.
5. As evidenced by Finding of Fact No. 6, the Town violated TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements, No. 7, and 30 Tex. Admin. Code

§ 305.125(1) by failing to provide non-compliance notification as required. Specifically, discharge monitoring report ("DMR") data revealed BOD5 deviations for the months of 11/05, 01/06, 02/06, 04/06, 05/06, and 06/06; TSS deviations for the months of 01/06, 02/06, 03/06, 04/06, 05/06, 06/06, 07/06, 10/06, 11/06, and 12/06; and flow deviations for the months of 11/05, 12/05, and 07/06 which exceeded the permitted effluent limits by more than 40% and no non-compliance notifications were submitted.

6. As evidenced by Finding of Fact No. 7, the Town violated 30 Tex. Admin. Code §§ 30.331(b) and 30.350(d) by failing to ensure an adequately licensed individual to operate the Facility. Specifically, the operator's Class D license expired on January 4, 2001.
7. As evidenced by Finding of Fact No. 8, the Town violated 30 Tex. Admin. Code § 305.125(4) and (5) and Tex. Water Code § 26.121 by failing to prevent unauthorized discharges. Specifically, during the January 24, 2007 investigation, it was documented that unauthorized discharges had occurred from the clean-out located within the collection system and from a leak from the influent pipe prior to the headworks.
8. As evidenced by Finding of Fact No. 9, the Town violated 30 Tex. Admin. Code § 305.125(9) by failing to notify the TCEQ of the unauthorized discharges. Specifically, during the January 24, 2007 investigation, it was documented that the unauthorized discharges which occurred from the clean-out located within the collection system and from a leak from the influent pipe prior to the headworks were not reported to the TCEQ.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Town 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.
10. An administrative penalty in the amount of Twenty Thousand Dollars (\$20,000.00) 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 Town has paid Seven Hundred Thirty Dollars (\$730.00) of the administrative penalty. The remaining amount of Nineteen Thousand Two Hundred Seventy (\$19,270.00) of the administrative penalty shall be payable in forty-seven (47) monthly payments of Four Hundred Ten Dollars (\$410) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Town fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Town to meet the payment schedule of this Agreed Order

constitutes the failure by the Town to timely and satisfactorily comply with all the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. The Town is assessed an administrative penalty in the amount of Twenty Thousand Dollars (\$20,000.00) as set forth in Conclusion of Law No. 10 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Town'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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Town of Mustang, Docket No. 2007-0407-MWD-E; Enforcement ID No. 33019" 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 Town shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order, begin providing non-compliance notifications and begin notifying the TCEQ of any unauthorized discharges, in accordance with TPDES Permit No. WQ0011516001;
 - b. Within 15 days after the effective date of this Agreed Order, submit annual sludge reports for the reporting periods ending July 31, 2005 and July 31, 2006, in accordance with TPDES Permit No. WQ0011516001;
 - c. Within 15 days after the effective date of this Agreed Order, properly install, operate, and maintain the flow measuring device at the Facility, in accordance with TPDES Permit No. WQ0011516001;

- d. Within 30 days after the effective date of this Agreed Order, ensure that a properly licensed individual operates the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 30.331 and 30.350;
- e. Within 45 days after the effective date of this Agreed Order, develop and implement operational and maintenance procedures to prevent future unauthorized discharges, in accordance with 30 TEX. ADMIN. CODE § 305.125 and TEX. WATER CODE § 26.121; and
- f. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. WQ0011516001, Effluent Limitations and Monitoring Requirements, and Ordering Provisions 2.a. through 2.e. The certification shall be submitted as described below, shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and 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 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:

Sid Slocum, Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality

2309 Gravel Drive
Fort Worth, Texas 76118

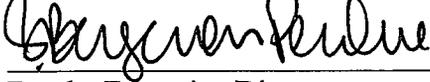
3. The provisions of this Agreed Order shall apply to and be binding upon the Town. The Town is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the facility operations referenced in this Agreed Order.
4. If the Town fails to comply with any of the Ordering 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 Town's failure to comply is not a violation of this Agreed Order. The Town has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Town shall notify the Executive Director within seven days after the Town 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 Town shall be made in writing to the Executive Director. Extensions are not effective until the Town 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 Town if the Executive Director determines that the Town 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 Town 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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to the Town, or three days after the date on which the Commission mails notice of the Order to the Town, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/7/08

Date

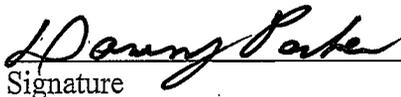
I, the undersigned, have read and understand the attached Agreed Order in the matter of Town of Mustang. I represent that I am authorized to agree to the attached Agreed Order on behalf of Town of Mustang, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

I understand that by entering into this Agreed Order, Town of Mustang 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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


Signature

7-8-08
Date

DANNY PARKER
Name (printed or typed)
Authorized Representative
Town of Mustang

MAYOR
Title