

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0584-MWD-E **TCEQ ID:** RN101920403 **CASE NO.:** 35689

RESPONDENT NAME: City of Evant

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 Evant, approximately 200 feet south of Live Oak Street near the southeast corner of the City of Evant, Coryell 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. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Sterling Manning, Mayor, City of Evant, P.O. Box 10, Evant, Texas 76525-0010 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: February 7, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 29, 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 dissolved oxygen, biochemical oxygen demand, and total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$10,335</p> <p>Total Deferred: \$2,067 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$4,134 (remaining \$4,134 due in 1 monthly payment of \$4,134)</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 Director recognizes that the Respondent implemented the following corrective measures at the Facility by December 31, 2007:</p> <ol style="list-style-type: none"> a. Rebuilt the chlorine feed system vacuum and water system; b. Cleaned the chlorine contact chamber and weir box; c. Replaced return activated sludge pump and placed back in service; d. Emptied and cleaned the clarifier; e. Rebuilt the clarifier skimmer and bottom sweep gear box; f. Added enzymes and food to revitalize the aeration basin; g. Placed the skimmer pump in service; h. Calibrated the on-line flow meter and placed in service; i. Placed the drying beds in service; and j. Provided current effluent sample results to show there have been no exceedances since December 2007, which was verified by reviewing the discharge monitoring reports that were submitted to TCEQ.

Additional ID No(s): WQ0011011001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

TCEQ

DATES	Assigned	3-Apr-2008	Screening	8-Apr-2008	EPA Due	
	PCW	16-Apr-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Evant
Reg. Ent. Ref. No.	RN101920403
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35689	No. of Violations	2
Docket No.	2008-0584-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Trina Grieco
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,500
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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	109% Enhancement	Subtotals 2, 3, & 7	\$7,085
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Notes Penalty enhancement due to 21 same or similar violations (which includes 20 self-reported effluent violations) and two dissimilar violations.

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

Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$1,625
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent completed corrective actions by December 31, 2007.

Approx. Cost of Compliance	\$5,000	0% Enhancement	Subtotal 6	\$0
Total EB Amounts	\$350			
*Capped at the Total EB \$ Amount				

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,960
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-12%	Adjustment	-\$1,625
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes A reduction is recommended so that the monthly self-reported effluent violations do not overly impact the penalty amount.

Final Penalty Amount	\$10,335
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,335
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DEFERRAL	20% Reduction	Adjustment	-\$2,067
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,268
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Screening Date 8-Apr-2008

Docket No. 2008-0584-MWD-E

PCW

Respondent City of Evant

Policy Revision 2 (September 2002)

Case ID No. 35689

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101920403

Media [Statute] Water Quality

Enf. Coordinator Trina Grieco

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)	21	105%
	Other written NOVs	2	4%
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 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%
<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) 109%

>> 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

Penalty enhancement due to 21 same or similar violations (which includes 20 self-reported effluent violations) and two dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 109%

Screening Date 8-Apr-2008	Docket No. 2008-0584-MWD-E
Respondent City of Evant	PCW <small>Policy Revision 2 (September 2002) PCW Revision February 29, 2008</small>
Case ID No. 35689	
Reg. Ent. Reference No. RN101920403	
Media [Statute] Water Quality	
Enf. Coordinator Trina Grieco	
Violation Number <input type="text" value="1"/>	
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6 and Tex. Water Code § 26.121(a)
Violation Description	Failed to comply with the permitted effluent limitations (see attached table).
Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

A simplified model was used to evaluate the values for biochemical oxygen demand ("BOD") and dissolved oxygen to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. Total suspended solids were also evaluated. As a result of the exceedances, human health and the environment have been exposed to an insignificant amount of pollutants which did not exceed levels that are protective of human health or environmental receptors.

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	x
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Four quarterly 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 City of Evant
Case ID No. 35689
Reg. Ent. Reference No. RN101920403
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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	\$5,000	31-Dec-2006	31-Dec-2007	1.0	\$17	\$333	\$350
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 rebuild the chlorine feed system vacuum and water system, clean the chlorine contact chamber and weir box, replace return activated sludge pump and place back in service, empty and clean the clarifier, rebuild the clarifier skimmer and bottom sweep gear box, add enzymes and food to revitalize the aeration basin, place the skimmer pump in service, calibrate the on-line flow meter and place in service, and place the drying beds in service. Date required is the end of the first month of noncompliance. Final date is the date corrective actions were completed.

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	\$5,000	TOTAL	\$350
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Screening Date 8-Apr-2008	Docket No. 2008-0584-MWD-E	PCW
Respondent City of Evant		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35689		<i>PCW Revision February 29, 2008</i>
Reg. Ent. Reference No. RN101920403		
Media [Statute] Water Quality		
Enf. Coordinator Trina Grieco		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0011011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6 and Tex. Water Code § 26.121(a)	
Violation Description	Failed to comply with the permitted effluent limitations. Specifically, the BOD was 49 mg/L in December 2006.	
	Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>

>> Programmatic Matrix

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

Matrix Notes

A simplified model was used to evaluate the values for biochemical oxygen demand ("BOD") and dissolved oxygen to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. Total suspended solids were also evaluated. As a result of the exceedances, human health and the environment have been exposed to a significant amount of pollutants which did not exceed levels that are protective of human health or environmental receptors.

Adjustment

\$2,500

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty

One monthly event is 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 City of Evant
Case ID No. 35689
Reg. Ent. Reference No. RN101920403
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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

The economic benefit for this violation is included in the economic benefit for Violation 1.

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

Compliance History

Customer/Respondent/Owner-Operator:	CN600507495 City of Evant	Classification: AVERAGE	Rating: 3.14
Regulated Entity:	RN101920403 CITY OF EVANT	Classification: AVERAGE	Site Rating: 3.27
ID Number(s):	WASTEWATER PERMIT		WQ0011011001
	WASTEWATER PERMIT		TPDES0055522
	WASTEWATER PERMIT		TX0055522
	WASTEWATER LICENSING LICENSE		WQ0011011001
Location:	Approximately 200 feet south of Live Oak Street near the southeast corner of the City of Evant	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	April 07, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 07, 2003 to April 07, 2008		

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

Name: Trina Grieco Phone: (210) 403-4006

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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	05/16/2003	(307994)
2	08/29/2003	(307995)
3	08/29/2003	(307996)
4	03/11/2004	(307997)
5	03/11/2004	(307998)
6	03/11/2004	(307999)
7	03/11/2004	(308000)
8	06/02/2005	(393263)
9	08/09/2007	(593280)
10	11/27/2007	(622032)
11	12/13/2007	(622034)
12	01/02/2008	(622015)
13	01/02/2008	(622016)
14	01/02/2008	(622017)
15	01/02/2008	(622018)
16	01/02/2008	(622019)
17	01/02/2008	(622020)
18	01/02/2008	(622021)
19	01/02/2008	(622022)
20	01/02/2008	(622023)
21	01/02/2008	(622024)
22	01/02/2008	(622025)
23	01/02/2008	(622026)
24	01/02/2008	(622027)
25	01/02/2008	(622028)
26	01/02/2008	(622029)
27	01/02/2008	(622030)
28	01/02/2008	(622031)
29	01/02/2008	(622033)
30	01/02/2008	(622035)
31	01/02/2008	(622014)

32 01/17/2008 (612525)
33 02/29/2008 (617707)

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

Date: 11/30/2003 (307999)
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: 03/25/2005 (345604)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 317 317.3(b)(3)
Rqmt Prov: PERMIT O & M No. 1 Pg. 9
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. At the time of the investigation, it was noted that the automatic float switch was not operating at the lift station on Bell St.
Date: 03/31/2006 (622017)
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: 04/30/2006 (622019)
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: 05/31/2006 (622021)
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: 06/30/2006 (622023)
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2006 (622025)
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 08/31/2006 (622027)
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: 09/30/2006 (622029)
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 10/31/2006 (622031)
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: 11/30/2006 (622033)
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: 12/31/2006 (622035)
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: 01/31/2007 (622014)
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	08/31/2007 (622028)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2007 (622032)		
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:	11/30/2007 (622034)		
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 EVANT
RN101920403

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0584-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 Evant ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility approximately 200 feet south of Live Oak Street near the southeast corner of the City of Evant, Coryell County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Three Hundred Thirty-Five Dollars (\$10,335) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand One Hundred Thirty-Four Dollars (\$4,134) of the administrative penalty and Two Thousand Sixty-Seven Dollars (\$2,067) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Thousand One Hundred Thirty-Four Dollars (\$4,134) of the administrative penalty shall be payable within 30 days after the effective date of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, it constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Respondent 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 Respondent implemented the following corrective measures at the Facility by December 31, 2007:
 - a. Rebuilt the chlorine feed system vacuum and water system;
 - b. Cleaned the chlorine contact chamber and weir box;
 - c. Replaced return activated sludge pump and placed back in service;
 - d. Emptied and cleaned the clarifier;
 - e. Rebuilt the clarifier skimmer and bottom sweep gear box;
 - f. Added enzymes and food to revitalize the aeration basin;
 - g. Placed the skimmer pump in service;
 - h. Calibrated the on-line flow meter and placed in service;
 - i. Placed the drying beds in service; and
 - j. Provided current effluent sample results to show there have been no exceedances since December 2007, which was verified by reviewing the discharge monitoring reports that were submitted to TCEQ.
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 Respondent 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 Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011011001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6 and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on February 7, 2008 and as shown in the following table:

EFFLUENT VIOLATION TABLE						
Months	DO daily conc. min. limit = 3.0 mg/L	BOD (5-day) daily avg. conc. limit = 20 mg/L	BOD (5-day) daily max. conc. limit = 65 mg/L	TSS daily avg. loading limit = 10 lbs/day	TSS daily avg. conc. limit = 20 mg/L	TSS daily max. conc. limit = 65 mg/L
December 2006	2.6 mg/L	49 mg/L	c	11.621 lbs/day	56 mg/L	c
January 2007	c	c	c	15.177 lbs/day	43 mg/L	76 mg/L
February 2007	c	c	c	15.177 lbs/day	43 mg/L	76 mg/L
March 2007	c	23 mg/L	c	c	37 mg/L	76 mg/L
April 2007	c	c	c	c	29 mg/L	c
May 2007	2.2 mg/L	c	c	c	c	c
June 2007	2.0 mg/L	c	c	c	c	c
August 2007	c	36 mg/L	90 mg/L	c	c	c
October 2007	c	21 mg/L	c	c	c	c
November 2007	2.1 mg/L	41 mg/L	c	c	40 mg/L	86 mg/L
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>mg/L = milligrams per liter avg. = average conc. = concentration lbs/day = pounds per day c = compliant</p> </div> <div style="width: 45%;"> <p>DO = dissolved oxygen BOD = biochemical oxygen demand TSS = total suspended solids max. = maximum min = minimum</p> </div> </div>						

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 Evant, Docket No. 2008-0584-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 Respondent. The Respondent 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. If the Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Ordean
For the Executive Director

2/5/2009
Date

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.

Stephan Manning (MAYOR)
Signature

1-26-09
Date

Stephan Manning / MAYOR
Name (Printed or typed)
Authorized Representative of
City of Evant

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.

