

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0999-MWD-E **TCEQ ID:** RN101920692 **CASE NO.:** 36079

RESPONDENT NAME: City of Hempstead

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 Hempstead, located at the intersection of 23rd Street and Hamilton Street, approximately 1.5 miles southwest of the intersection of U.S. Highway 290 and State Highways 6 and 159, Waller County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Michael Wolfe, Sr., Mayor, City of Hempstead, 1125 Austin Street, Hempstead, Texas 77445 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: May 5, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 28, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits for total suspended solids, total ammonia nitrogen, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010948001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to timely submit discharge monitoring reports ("DMRs") for the monitoring periods of July and August 2007 [30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. WQ0010948001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$4,200 3900</p> <p>Total Deferred: \$840 780 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,360 13120</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 has implemented the following corrective measures at the Facility:</p> <p>a. On January 31, 2008, achieved compliance with the permitted effluent limits, by increasing monitoring efforts, and having the City Engineer inspect the Facility for problems; and</p> <p>b. On July 14, 2008, submitted DMRs for the monitoring periods ending July 31, 2007 and August 30, 2007.</p>

Additional ID No(s): WQ0010948001

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0999-MWD-E **TCEQ ID:** RN101920692 **CASE NO.:** 36079

RESPONDENT NAME: City of Hempstead

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
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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 Hempstead, located at the intersection of 23rd Street and Hamilton Street, approximately 1.5 miles southwest of the intersection of U.S. Highway 290 and State Highways 6 and 159, Waller County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Michael Wolfe, Sr., Mayor, City of Hempstead, 1125 Austin Street, Hempstead, Texas 77445 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: May 5, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 28, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits for total suspended solids, total ammonia nitrogen, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010948001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to timely submit discharge monitoring reports ("DMRs") for the monitoring periods of July and August 2007 [30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. WQ0010948001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$3,900</p> <p>Total Deferred: \$780 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,120</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 has implemented the following corrective measures at the Facility:</p> <p>a. On January 31, 2008, achieved compliance with the permitted effluent limits, by increasing monitoring efforts and having the City Engineer inspect the Facility for problems; and</p> <p>b. On July 14, 2008, submitted DMRs for the monitoring periods ending July 31, 2007 and August 30, 2007.</p>

Additional ID No(s): WQ0010948001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision April 29, 2008

TCEQ

DATES	Assigned	2-Jun-2008	Screening	16-Jun-2008	EPA Due	
	PCW	16-Jun-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Hempstead
Reg. Ent. Ref. No.	RN101920692
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36079	No. of Violations	2
Docket No.	2008-0999-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 1
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,200
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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	100.0% Enhancement	Subtotals 2, 3, & 7	\$2,200
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Notes: The penalty is enhanced because the Respondent self-reported 13 months of effluent violations, received two notices of violations (NOVs) that are same or similar to those cited in this action, and received one Agreed Order without a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$56
 Approx. Cost of Compliance: \$1,125
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,900
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$3,900**

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,900
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DEFERRAL	20.0% Reduction	Adjustment	-\$780
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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	\$3,120
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Screening Date 16-Jun-2008

Docket No. 2008-0999-MWD-E

PCW

Respondent City of Hempstead

Policy Revision 2 (September 2002)

Case ID No. 36079

PCW/ Revision April 29, 2008

Reg. Ent. Reference No. RN101920692

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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)	15	75%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 100%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced because the Respondent self-reported 13 months of effluent violations, received two notices of violations (NOVs) that are same or similar to those cited in this action, and received one Agreed Order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 100%

Screening Date 16-Jun-2008		Docket No. 2008-0999-MWD-E		PCW	
Respondent City of Hempstead		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36079		<i>PCW Revision April 29, 2008</i>			
Reg. Ent. Reference No. RN101920692					
Media [Statute] Water Quality					
Enf. Coordinator Heather Brister					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)		Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010948001, Effluent Limitations and Monitoring Requirements No.1.			
Violation Description		Failed to comply with permit effluent limits, as documented during a record review conducted on May 5, 2008 and as described in the attached table.			
Base Penalty				<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="10%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>	
Matrix Notes	A simplified model was used to evaluate total ammonia nitrogen daily average concentration to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and total suspended solids were also considered. As a result of these discharges, human health or the environment have been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.				
Adjustment				<input type="text" value="\$9,000"/>	
				<input type="text" value="\$1,000"/>	
Violation Events					
Number of Violation Events		<input type="text" value="2"/>	Number of violation days		
		<input type="text" value="70"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
Two quarterly events are recommended.				Violation Base Penalty <input type="text" value="\$2,000"/>	
Good Faith Efforts to Comply		<input type="text" value="25.0%"/>	Reduction		
		<input type="text" value="500"/>			
		<input type="text" value="500"/>			
		<input type="text" value="500"/>			
		<input type="text" value="500"/>			
		<input type="text" value="500"/>			
Notes		The Respondent achieved compliance during January 2008.			
Violation Subtotal				<input type="text" value="\$1,500"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$50"/>	Violation Final Penalty Total <input type="text" value="\$3,500"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$3,500"/>	

Economic Benefit Worksheet

Respondent: City of Hempstead
Case ID No.: 36079
Reg. Ent. Reference No.: RN101920692
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	31-Jan-2007	31-Jan-2008	1.00	\$50	n/a	\$50

Notes for DELAYED costs

Estimated cost for additional monitoring and to have the City Engineer come out and evaluate the Facility. Date Required is the initial month of noncompliance. Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$50

Screening Date 16-Jun-2008	Docket No. 2008-0999-MWD-E	PCW			
Respondent City of Hempstead		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36079		<i>PCW Revision April 29, 2008</i>			
Reg. Ent. Reference No. RN101920692					
Media [Statute] Water Quality					
Enf. Coordinator Heather Brister					
Violation Number <input type="text" value="2"/>					
Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), TPDES Permit No. WQ0010948001, Monitoring and Reporting Requirements No. 1					
Violation Description	Failed to timely submit discharge monitoring reports ("DMRs") for the monitoring periods ending July 31 and August 30, 2007, as documented during a record review conducted on May 5, 2008.				
	Base Penalty	<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	x	Percent <input type="text" value="1%"/>
Matrix Notes	<input type="text" value="At least 70% of the rule requirement was met."/>				
	Adjustment	<input type="text" value="\$9,900"/>			
		<input type="text" value="\$100"/>			
Violation Events					
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="321"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$200"/>	
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text" value="x"/>			
	<input type="text" value="Two single events are recommended."/>				
Good Faith Efforts to Comply					
	0.0%	Reduction		<input type="text" value="\$0"/>	
	Before NOV	NOV to EDRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	x	(mark with x)			
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>				
	Violation Subtotal	<input type="text" value="\$200"/>			
Economic Benefit (EB) for this violation					
Statutory Limit Test					
	Estimated EB Amount	<input type="text" value="\$6"/>	Violation Final Penalty Total	<input type="text" value="\$400"/>	
	This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$400"/>	

Economic Benefit Worksheet

Respondent: City of Hempstead
Case ID No.: 36079
Reg. Ent. Reference No.: RN101920692
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$125	20-Aug-2007	14-Jul-2008	0.90	\$6	n/a	\$6
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to submit the missing DMRs. Date Required is the date the first missing DMR was due. Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$125

TOTAL \$6

Effluent Limit Violation Table

table rev.

Respondent	City of Hempstead
ID Number(s)	WQ0010948001
Docket Number	2008-0999-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number:

1

*EFFLUENT PARAMETER
Permit Limit*

	Total Suspended Solids Daily Average Loading 75 Pounds per Day	Total Suspended Solids Daily Average Concentration 15 Milligrams per Liter	Total Ammonia Nitrogen Daily Average Loading 15 Pounds per Day	Total Ammonia Nitrogen Daily Average Concentration 3 Milligrams per Liter	Total Ammonia Nitrogen Daily Maximum Concentration 10 Milligrams per Liter	Daily Average Flow 0.6 Million Gallons per Day
<i>Month/Year</i>						
Jan-07	96.61	20	c	c	c	c
Feb-07	c	c	27.38	5.52	13.7	c
Mar-07	c	c	c	c	c	0.77
Sep-07	c	c	20.2	6.27	c	c
Oct-07	c	c	17.93	5.32	10.4	c

c = compliant

Compliance History

Customer/Respondent/Owner-Operator:	CN600244040	City of Hempstead	Classification: AVERAGE	Rating: 5.39
Regulated Entity:	RN101920692	CITY OF HEMPSTEAD	Classification: AVERAGE	Site Rating: 13.16
ID Number(s):	WASTEWATER	PERMIT	WQ0010948001	
	WASTEWATER	PERMIT	TPDES0023809	
	WASTEWATER	PERMIT	TX0023809	
	WASTEWATER LICENSING	LICENSE	WQ0010948001	

Location: Located at the intersection of 23rd Street and Hamilton Street, approximately 1.5 miles southwest of the intersection of U.S. Highway 290 and State Highways 6 and 159, in Waller County, Texas. Rating Date: 9/1/2007 Rep: Violator: No

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: June 03, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: June 03, 2003 to June 03, 2008
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: 254/761-3034

Site Compliance History Components

- | | |
|----------------------------------------------------------------------------------------------|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 09/21/2006 ADMINORDER 2004-0371-MWD-E
 - Classification: Major
 - Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 - Rqmt Prov: II.1 ORDER
 - Description: Failure to prevent the unauthorized discharge of untreated or partially treated wastewater from the wastewater treatment plant.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
 - Rqmt Prov: II.3 ORDER
 - Description: Failure to submit a noncompliance notification within twenty four hours by phone or fax and/or a written notification within five working days for the unauthorized discharge of wastewater from the wastewater treatment plant for the unauthorized discharges that occurred on September 2, 2003.
 - Classification: Moderate
 - Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
 - Rqmt Prov: II.4 ORDER
 - Description: Failure to maintain compliance with the permit effluent limits for carbonaceous biochemical oxygen demand (CBOD), total suspended solids (TSS) and ammonia nitrogen (NH3-N).
- 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 06/12/2003 (299745)
- 2 07/18/2003 (299747)
- 3 09/08/2003 (299748)
- 4 09/19/2003 (299749)
- 5 10/22/2003 (299750)
- 6 11/26/2003 (299752)

7	12/29/2003	(299754)
8	01/16/2004	(299755)
9	02/17/2004	(299741)
10	03/15/2004	(299742)
11	04/19/2004	(299743)
12	05/14/2004	(353896)
13	06/23/2004	(299746)
14	07/19/2004	(353897)
15	09/17/2004	(353899)
16	09/20/2004	(353898)
17	10/15/2004	(353900)
18	11/19/2004	(335205)
19	11/22/2004	(382849)
20	12/16/2004	(382850)
21	01/17/2005	(382851)
22	02/14/2005	(420653)
23	03/18/2005	(382848)
24	04/15/2005	(420654)
25	05/18/2005	(420655)
26	06/14/2005	(395551)
27	06/24/2005	(420656)
28	07/14/2005	(441656)
29	09/15/2005	(441658)
30	09/22/2005	(441657)
31	10/26/2005	(470098)
32	11/23/2005	(470099)
33	12/21/2005	(470100)
34	01/25/2006	(470101)
35	02/17/2006	(470096)
36	03/20/2006	(470097)
37	04/19/2006	(499255)
38	05/26/2006	(499256)
39	06/22/2006	(499257)
40	07/20/2006	(521294)
41	09/05/2006	(521295)
42	09/18/2006	(521296)
43	10/24/2006	(545818)
44	11/20/2006	(545819)
45	01/22/2007	(577669)
46	02/23/2007	(577663)
47	02/23/2007	(577668)
48	03/28/2007	(577664)
49	04/20/2007	(577665)
50	05/08/2007	(543913)
51	06/11/2007	(563725)
52	06/12/2007	(577666)
53	06/26/2007	(577667)
54	07/20/2007	(602254)
55	09/14/2007	(602255)
56	10/25/2007	(620435)
57	11/30/2007	(672713)
58	12/27/2007	(620436)
59	03/26/2008	(672711)
60	03/26/2008	(672712)
61	03/26/2008	(672714)
62	05/29/2008	(656954)

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

Date: 08/31/2003 (299749)
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: 02/29/2004 (299742)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2004 (299743)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2004 (353896)
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: 06/30/2004 (353897)
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: 08/31/2004 (353899)
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: 09/30/2004 (353900)
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: 11/19/2004 (335205)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
Description: Failure to prevent the unauthorized discharge of untreated or partially treated wastewater from the wastewater treatment plant.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to properly operate and maintain the clarifier.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain compliance with the permit effluent limits.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to properly operate and maintain the chlorine contact basin.		
Date:	02/28/2005	(382848)	
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:	01/31/2007	(577663)	
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:	02/28/2007	(577664)	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007	(577665)	
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:	05/07/2007	(543913)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)		
Description:	Failure to properly operate and maintain the chlorine contact basins.		
Self Report?	NO	Classification:	Moderate
Citation:	TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(1) TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent the unauthorized discharge of untreated or partially treated wastewater from the wastewater treatment plant.		
Date:	09/30/2007	(620435)	
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 (672713)

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

eat

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HEMPSTEAD
RN101920692

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0999-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 Hempstead ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located at the intersection of 23rd Street and Hamilton Street, approximately 1.5 miles southwest of the intersection of U.S. Highway 290 and State Highways 6 and 159 in Waller County, Texas, (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about June 2, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Nine Hundred Dollars (\$3,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Three Thousand One Hundred Twenty Dollars (\$3,120) of the administrative

- penalty and Seven Hundred Eighty Dollars (\$780) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. On January 31, 2008, achieved compliance with the permitted effluent limits, by increasing monitoring efforts and having the City Engineer inspect the Facility for problems; and
 - b. On July 14, 2008, submitted Discharge Monitoring Reports ("DMRs") for the monitoring periods ending July 31, 2007 and August 30, 2007.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010948001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on May 5, 2008 and as described in the following table:

EFFLUENT PARAMETER						
Permit Limit						
	Total Suspended Solids Daily Average Loading 75 Pounds per Day	Total Suspended Solids Daily Average Concentration 15 Milligrams per Liter	Total Ammonia Nitrogen Daily Average Loading 15 Pounds per Day	Total Ammonia Nitrogen Daily Average Concentration 3 Milligrams per Liter	Total Ammonia Nitrogen Daily Maximum Concentration 10 Milligrams per Liter	Daily Average Flow 0.6 Million Gallons per Day
<i>Month/Year</i>						
Jan-07	96.61	20	c	c	c	c
Feb-07	c	c	27.38	5.52	13.7	c
Mar-07	c	c	c	c	c	0.77
Sep-07	c	c	20.2	6.27	c	c
Oct-07	c	c	17.93	5.32	10.4	c

c = compliant

- Failed to timely submit discharge monitoring reports ("DMRs") for the monitoring periods of July and August 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. WQ0010948001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on May 5, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hempstead, Docket No. 2008-0999-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

- The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed



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

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Hempstead
DOCKET NO. 2008-0999-MWD-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Soderie

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.

Michael Wolfe Sr.

Signature

November 19, 2008

Date

Mayor Michael Wolfe Sr.

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

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.

