

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1729-MWD-E **TCEQ ID:** RN101920270 **CASE NO.:** 36752

RESPONDENT NAME: City of Itasca

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 Itasca, located one mile south of Itasca, west of United States Highway 81 and adjacent to Missouri, Kansas and Texas Railroad, Hill County</p> <p>TYPE OF OPERATION: Wastewater treatment system</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 April 6, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Matt Fehnel, Mayor, City of Itasca, 126 North Hill Street, Itasca, Texas 76055 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 2, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 15, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for total suspended solids, biochemical oxygen demand, and dissolved oxygen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010423001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>	<p>Total Assessed: \$4,580</p> <p>Total Deferred: \$916 <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: \$1,832 (remaining \$1,832 due in 2 monthly payments of \$916 each)</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>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010423001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision.</p>

Additional ID No(s):: WQ0010423001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Oct-2008	Screening	3-Nov-2008	EPA Due	
	PCW	10-Nov-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Itasca
Reg. Ent. Ref. No.	RN101920270
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36752	No. of Violations	1
Docket No.	2008-1729-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Evette Alvarado
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1*

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement *Subtotals 2, 3, & 7*

Notes: Enhancement recommended for 23 monthly self-reported effluent violations, two NOV's with violations same or similar to those cited in this action, and two NOV's with unrelated violations.

Culpability Enhancement *Subtotal 4*

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5*

Economic Benefit Enhancement* *Subtotal 6*

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL Reduction *Adjustment*

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

Screening Date 3-Nov-2008

Docket No. 2008-1729-MWD-E

PCW

Respondent City of Itasca

Policy Revision 2 (September 2002)

Case ID No. 36752

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920270

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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)	25	125%
	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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 129%

>> **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

Enhancement recommended for 23 monthly self-reported effluent violations, two NOVs with violations same or similar to those cited in this action, and two NOVs with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 129%

Screening Date 3-Nov-2008	Docket No. 2008-1729-MWD-E	PCW
Respondent City of Itasca		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36752		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN101920270		
Media [Statute] Water Quality		
Enf. Coordinator Evette Alvarado		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010423001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6	
Violation Description	Failed to comply with the permitted effluent limitations, as shown in the attached effluent table.	
	Base Penalty	<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Major Moderate Minor	
Actual	<input type="text"/>	<input type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>
	Percent	<input type="text" value="10%"/>
>> Programmatic Matrix		
	Major Moderate Minor	
	<input type="text"/>	<input type="text"/>
	Percent	<input type="text" value="0%"/>
Matrix Notes	A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and dissolved oxygen 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 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"/>	<input type="text" value="154"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
	Violation Base Penalty	<input type="text" value="\$2,000"/>
	<input type="text" value="Two quarterly events are recommended."/>	
Good Faith Efforts to Comply		
	<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>
Notes	The Respondent does not meet the good faith criteria for this violation.	
	Violation Subtotal	<input type="text" value="\$2,000"/>
Economic Benefit (EB) for this violation		
Estimated EB Amount	<input type="text" value="\$272"/>	Statutory Limit Test
		<input type="text" value="\$4,580"/>
	This violation Final Assessed Penalty (adjusted for limits)	
		<input type="text" value="\$4,580"/>

Economic Benefit Worksheet

Respondent City of Itasca
Case ID No. 36752
Reg. Ent. Reference No. RN101920270
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,000	31-Dec-2007	7-Aug-2009	1.60	\$5	\$107	\$112
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)	\$2,000	31-Dec-2007	7-Aug-2009	1.60	\$160	n/a	\$160

Notes for DELAYED costs
 Estimated cost to repair a clarifier weir and to conduct additional training and sampling to achieve compliance with the permitted effluent limits. Date required is the first month of excursions. Final date is expected date of compliance.

Avoided Costs

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$3,000

TOTAL \$272

City of Itasca
2008-1729-MWD-E

EFFLUENT VIOLATION TABLE				
Months	TSS daily ave. conc.	5-day BOD single grab	5-day BOD daily ave. conc.	DO min. conc.
	Limit = 15 mg/L	Limit = 35 mg/L	Limit = 10 mg/L	Limit = 5.0 mg/L
12/31/2007	25	c	26	2.5
1/31/2008	23	88	24	3
3/31/2008	21	c	c	c
4/30/2008	17	c	c	c
5/31/2008	16	c	c	c

ave. = average

c = compliant

conc. = concentration

TSS = total suspended solids

BOD = biochemical oxygen demand

min. = minimum

DO = dissolved oxygen

mg/L = milligrams per Liter

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600633648	City of Itasca	Classification: AVERAGE	Rating: 1.61
Regulated Entity:	RN101920270	CITY OF ITASCA	Classification: AVERAGE	Site Rating: 1.61
ID Number(s):	WASTEWATER	PERMIT		WQ0010423001
	WASTEWATER	PERMIT		TPDES0023892
	WASTEWATER	PERMIT		TX0023892
	WASTEWATER LICENSING	LICENSE		WQ0010423001
Location:	One mi. south of Itasca, West of US HWY 81 and adj. to Mo-Kan-Tx RR, in Hill County, Texas			Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	November 03, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 03, 2003 to November 03, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Evette Alvarado		Phone:	239 - 2573

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/16/2003	(332841)
2	01/23/2004	(299872)
3	01/26/2004	(299874)
4	01/26/2004	(299876)
5	01/26/2004	(299878)
6	01/28/2004	(299880)
7	05/12/2004	(249742)
8	07/19/2004	(274141)
9	08/12/2004	(285813)
10	08/18/2004	(353927)
11	08/18/2004	(353928)
12	08/27/2004	(353929)
13	08/27/2004	(353930)
14	08/27/2004	(353931)
15	08/27/2004	(353932)
16	10/28/2004	(353934)
17	10/28/2004	(353935)
18	11/09/2004	(353933)
19	12/08/2004	(382870)
20	12/20/2004	(382871)
21	01/20/2005	(382872)
22	05/23/2005	(420674)
23	05/23/2005	(420675)
24	05/23/2005	(420676)
25	05/23/2005	(420677)
26	07/20/2005	(441678)
27	09/19/2005	(441677)
28	09/19/2005	(441679)
29	09/19/2005	(441680)
30	01/19/2006	(470142)
31	01/19/2006	(470143)

32	01/19/2006	(470144)
33	01/19/2006	(470145)
34	03/23/2006	(470140)
35	03/23/2006	(470141)
36	04/13/2006	(499283)
37	05/12/2006	(499284)
38	06/21/2006	(499285)
39	07/07/2006	(521327)
40	07/24/2006	(482055)
41	09/01/2006	(521328)
42	10/24/2006	(545856)
43	11/10/2006	(545857)
44	12/07/2006	(545858)
45	01/10/2007	(577725)
46	01/18/2007	(577726)
47	03/20/2007	(577721)
48	04/26/2007	(577722)
49	05/24/2007	(577723)
50	06/11/2007	(577724)
51	07/30/2007	(602266)
52	07/30/2007	(602267)
53	08/29/2007	(602268)
54	10/01/2007	(620453)
55	10/15/2007	(620454)
56	11/16/2007	(620455)
57	12/27/2007	(620456)
58	01/14/2008	(672733)
59	02/15/2008	(672732)
60	03/17/2008	(690751)
61	04/17/2008	(690752)
62	04/25/2008	(637784)
63	05/16/2008	(690753)
64	07/10/2008	(681482)
65	07/11/2008	(654907)
66	10/16/2008	(701823)

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

Date:	12/16/2003	(332841)		
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:	01/31/2004	(353927)		
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	(353929)		
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:	04/26/2004	(255994)		
Self Report?	NO		Classification:	Moderate
Citation:	TWC Chapter 26 26.121(a)(1)			
Rqmt Prov:	PERMIT WQ0010423-001			
Description:	Failure to prevent the unauthorized discharge of wastewater.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Rqmt Prov:	PERMIT WQ0010423001			
Description:	Failure to operate and maintain the wastewater treatment facilities as to prevent an unauthorized discharge of wastewater.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9)(A)			
Rqmt Prov:	PERMIT WQ0010423001			
Description:	Failure to provide notification of an unauthorized discharge as required.			

Date: 04/30/2004 (353930)
 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: 05/31/2004 (353931)
 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 (353932)
 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: 07/31/2004 (353933)
 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: 08/10/2004 (278010)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT TPDES Permit No. 10423-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT TPDES Permit No. 10423-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT TPDES Permit No. 10423-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Date: 08/31/2004 (353934)
 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 (353935)
 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: 04/30/2005 (420677)
 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: 05/31/2005 (441677)
 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: 06/30/2005 (441678)
 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: 07/31/2005 (441679)
 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: 03/31/2006 (499283)
 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: 04/30/2006 (499284)
 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: 05/31/2006 (499285)
 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: 07/31/2006 (521328)
 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: 09/30/2006 (545857)
 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 (577721)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2007 (672733)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2008 (672732)
 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: 03/31/2008 (690752)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2008 (690753)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2008
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/14/2008 (654907)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT TPDES Permit No. 10423-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(a)(5)
 Rqmt Prov: PERMIT Operational Requirements, No. 4 Pg. 10
 Description: Failure by the permittee to maintain a form of functional auxiliary power at the wastewater treatment plant.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT Operational Requirements, No. 1 Pg. 9
 Description: Failure to properly operate and maintain all systems of collection, treatment, and disposal.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(5)		
Rqmt Prov:	PERMIT Operational Requirements, No. 1 Pg. 9		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(5)		
Rqmt Prov:	PERMIT Operational Requirements, No. 1 Pg. 9		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(5)		
Rqmt Prov:	PERMIT Operational Requirements, No. 1 Pg. 9		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1)		
Rqmt Prov:	PERMIT Permit Conditions, No. 2g Pg. 7		
Description:	Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.		

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 ITASCA
RN101920270

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1729-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 the City of Itasca ("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 system located one mile south of Itasca, west of United States Highway 81 and adjacent to Missouri, Kansas and Texas Railroad in Hill 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 violation alleged in Section II ("Allegations") on or about October 20, 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 Four Thousand Five Hundred Eighty Dollars (\$4,580) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Thousand Eight Hundred Thirty-Two Dollars (\$1,832) of

the administrative penalty and Nine Hundred Sixteen Dollars (\$916) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of One Thousand Eight Hundred Thirty-Two Dollars (\$1,832) of the administrative penalty shall be payable in two monthly payments of Nine Hundred Sixteen Dollars (\$916) each. The next 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 City 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 City to meet the payment schedule of this Agreed Order constitutes the failure by the City 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 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 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.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010423001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on September 2, 2008, and shown in the following table:

EFFLUENT VIOLATION TABLE				
Months	TSS daily ave. conc.	5-day BOD single grab	5-day BOD daily ave. conc.	DO min. conc.
	Limit = 15 mg/L	Limit = 35 mg/L	Limit = 10 mg/L	Limit = 5.0 mg/L
12/31/2007	25	c	26	2.5
1/31/2008	23	88	24	3
3/31/2008	21	c	c	c
4/30/2008	17	c	c	c
5/31/2008	16	c	c	c

ave. = average
 c = compliant
 conc. = concentration
 TSS = total suspended solids

BOD = biochemical oxygen demand
 min. = minimum
 DO = dissolved oxygen
 mg/L = milligrams per Liter

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Itasca, Docket No. 2008-1729-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. It is further ordered that, within 90 days after the effective date of this Agreed Order, the City shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010423001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering

Provision. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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

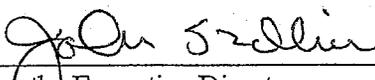
Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/27/2009
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.



Signature

1-12-2009
Date

Matt Fehsel
Name (Printed or typed)
Authorized Representative of
City of Itasca

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.