

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1930-MWD-E **TCEQ ID:** RN101721199 **CASE NO.:** 36942

RESPONDENT NAME: City of Bardwell

| | | |
|--|---|--|
| 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 Bardwell, located approximately 1,500 feet northeast of the intersection of Farm-to-Market Road 984 and State Highway 34, approximately 1,000 feet northwest of State Highway 34 and Farm-to-Market Road 985, and 1/4 mile east of Bardwell city limits on the north side of State Highway 34, Ellis 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 May 11, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable J. B. Lowry, Jr., Acting Mayor, City of Bardwell, P.O. Box 271, Bardwell, Texas 75101 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: October 13, 2008</p> <p>Date of NOV/NOE Relating to this Case: December 12, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations for dissolved oxygen, biochemical oxygen demand, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013675001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p> <p>2) Failure to submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013675001, Sludge Provisions].</p> | <p>Total Assessed: \$2,335</p> <p>Total Deferred: \$467 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,868</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 May 19, 2008, reseeded the biological reactor with mixed liquor from another wastewater treatment plant;</p> <p>b. During August 2008, returned to compliance with the permitted effluent limits of TPDES Permit No. WQ0013675001; and</p> <p>c. On November 1, 2008, submitted the annual sludge report for the monitoring period ending July 31, 2007.</p> |

Additional ID No(s): WQ0013675001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 15-Dec-2008 | | | |
| | PCW | 16-Dec-2008 | Screening | 16-Dec-2008 | EPA Due |

| | |
|--|---------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Bardwell |
| Reg. Ent. Ref. No. | RN101721199 |
| Facility/Site Region | 4-Dallas/Fort Worth |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36942 | No. of Violations | 2 |
| Docket No. | 2008-1930-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Jennifer Graves |
| | | 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 | \$2,100 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|--------------|
| Compliance History | 35.0% Enhancement | Subtotals 2, 3, & 7 | \$735 |
|---------------------------|-------------------|--------------------------------|--------------|

Notes: Enhancement due to seven monthly self-reported effluent violations.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|--------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$500 |
|--|-------------------|--------------|

| | | | |
|-------------------------|-------------------|-------------------|------------|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|------------|

Total EB Amounts \$49
 Approx. Cost of Compliance \$600
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$2,335 |
|-----------------------------|-----------------------|----------------|

| | | | |
|---|------|-------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$2,335**

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$2,335 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|-----------------|-------------------|---------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$467 |
|-----------------|-----------------|-------------------|---------------|

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 | \$1,868 |
|------------------------|----------------|

| | | |
|--|-----------------------------------|---|
| Screening Date 16-Dec-2008 | Docket No. 2008-1930-MWD-E | PCW |
| Respondent City of Bardwell | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 36942 | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. RN101721199 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Jennifer Graves | | |

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | <i>Enter Number Here</i> | Adjust. |
|-------------------------------|--|--------------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i> | 7 | 35% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i> | 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 <i>(number of judgements or consent decrees meeting criteria)</i> | 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 <i>(number of counts)</i> | 0 | 0% |
| Emissions | Chronic excessive emissions events <i>(number of events)</i> | 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 <i>(number of audits for which notices were submitted)</i> | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i> | 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) 35%

>> 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 due to seven monthly self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

| | | |
|--|-----------------------------------|---|
| Screening Date 16-Dec-2008 | Docket No. 2008-1930-MWD-E | PCW |
| Respondent City of Bardwell | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 36942 | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. RN101721199 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Jennifer Graves | | |
| Violation Number 1 | | |

| | |
|------------------------------|--|
| Rule Cite(s) | Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013675001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6 |
| Violation Description | Failed to comply with the permitted effluent limitations documented during a record review on October 13, 2008, and shown in the attached effluent table. |
| Base Penalty | \$10,000 |

>> Environmental, Property and Human Health Matrix

| | | | | |
|-----------|-------------|----------|-------|---------|
| OR | Harm | | | Percent |
| | Major | Moderate | Minor | |
| | Actual | | x | |
| Potential | | | 10% | |

>> Programmatic Matrix

| | | | | |
|---------------|-------|----------|-------|---------|
| | Major | Moderate | Minor | Percent |
| Falsification | | | | |
| | | | | 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. Dissolved oxygen and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

| | | | | |
|---------------------------------------|--------------|---------------------------------|----|-------------------------------|
| Number of Violation Events | 2 | Number of violation days | 92 | Violation Base Penalty |
| | | | | |
| mark only one with an x | daily | | | Violation Base Penalty |
| | weekly | | | |
| | monthly | | | |
| | quarterly | x | | |
| | semiannual | | | |
| | annual | | | |
| | single event | | | |
| Two quarterly events are recommended. | | | | Violation Base Penalty |
| | | | | \$2,000 |

Good Faith Efforts to Comply 25.0% Reduction **\$500**

| | | | |
|---------------------------|--|-------------------------------|---------|
| | Before NOV | NOV to EDPRP/Settlement Offer | |
| Extraordinary | | | |
| Ordinary | x | | |
| N/A | | (mark with x) | |
| Notes | The Respondent achieved compliance by August 31, 2008. | | |
| Violation Subtotal | | | \$1,500 |

| | |
|--|--|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount \$41 | Violation Final Penalty Total \$2,200 |
| This violation Final Assessed Penalty (adjusted for limits) \$2,200 | |

Economic Benefit Worksheet

Respondent City of Bardwell
Case ID No. 36942
Reg. Ent. Reference No. RN101721199
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|-------------|------|-----|------|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$500 | 1-Jul-2007 | 31-Aug-2008 | 1.17 | \$2 | \$39 | \$41 |
| 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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs Estimated cost for the Respondent to reseed the biological reactor with mixed liquor (\$500). 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 | \$500 | TOTAL | \$41 |
|-----------------------------------|-------|--------------|------|

| | | | | |
|--------------------------------|---|------------------------------------|-----------------|------------|
| Screening Date | 16-Dec-2008 | Docket No. | 2008-1930-MWD-E | PCW |
| Respondent | City of Bardwell | Policy Revision 2 (September 2002) | | |
| Case ID No. | 36942 | PCW Revision October 30, 2008 | | |
| Reg. Ent. Reference No. | RN101721199 | | | |
| Media [Statute] | Water Quality | | | |
| Enf. Coordinator | Jennifer Graves | | | |
| Violation Number | 2 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0013675001, Sludge Provisions | | | |
| Violation Description | Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007, as documented during a record review conducted on October 13, 2008. | | | |
| Base Penalty | | | | \$10,000 |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|----|-------------|-------|----------|---------|-------|
| OR | Harm | | | Percent | |
| | Release | Major | Moderate | | Minor |
| | Actual | | | | |
| | Potential | | | | |
| | | | | 0% | |

>> Programmatic Matrix

| | | | | | |
|--|---------------|-------|----------|-------|---------|
| | Falsification | Major | Moderate | Minor | Percent |
| | | | | x | |
| | | | | | 1% |

Matrix Notes: Over 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events: 1 Number of violation days: 472

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

| | | |
|---------------|----------------|-------------------------------|
| | 0.0% Reduction | \$0 |
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$8 Violation Final Penalty Total \$135

This violation Final Assessed Penalty (adjusted for limits) \$135

Economic Benefit Worksheet

Respondent: City of Bardwell
Case ID No.: 36942
Reg. Ent. Reference No.: RN101721199
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$100 | 1-Sep-2007 | 1-Nov-2008 | 1.17 | \$0 | \$8 | \$8 |
| 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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs
 Estimated cost of preparing and submitting the annual sludge report is based on \$100 per annual reporting period. Date required is the date the report was due. The 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 \$100 **TOTAL** \$8

EFFLUENT VIOLATION TABLE

City of Bardwell

TPDES Permit No. WQ0013675001

Docket No. 2008-1930-MWD-E

| | DO Monthly Min. | BOD ₅ Daily Avg. Conc. | BOD ₅ Daily Avg. Loading | BOD ₅ Max. Single Grab | TSS Daily Avg. Loading | TSS Daily Avg. Conc. | TSS Max. Single Grab |
|-----------|---------------------|--------------------------------------|--|--------------------------------------|---------------------------|-------------------------|-------------------------|
| Months | Limit = 4.0 mg/L | Limit = 10 mg/L | Limit = 6.7 lbs/day | Limit = 35 mg/L | Limit = 10 lbs/day | Limit = 15 mg/L | Limit = 60 mg/L |
| 7/31/2007 | c | c | c | c | c | 17.80 | 75.0 |
| 5/31/2008 | 3.1 | 45.30 | 16.80 | 67.0 | 14.6 | 39.30 | c |
| 6/30/2008 | 3.5 | 24.80 | c | 49.0 | c | 22.00 | c |

DO = dissolved oxygen

BOD₅ = biochemical oxygen demand

TSS = total suspended solids

avg. = average

conc. = concentration

lbs/day = pounds per day

mg/L = milligrams per liter

min. = minimum

max. = maximum

c = compliant



Compliance History Report

| | | | | |
|---|--|------------------|-------------------------|-------------------|
| Customer/Respondent/Owner-Operator: | CN600676506 | City of Bardwell | Classification: AVERAGE | Rating: 1.65 |
| Regulated Entity: | RN101721199 | CITY OF BARDWELL | Classification: AVERAGE | Site Rating: 0.30 |
| ID Number(s): | WASTEWATER | PERMIT | WQ0013675001 | |
| | WASTEWATER | PERMIT | TX0026581 | |
| | WASTEWATER | PERMIT | WQ0013675001 | |
| | WASTEWATER | EPA ID | TX0026581 | |
| Location: | LOCATED 1,500 FT NE OF INTX OF FM 984 AND STATE HWY 34, APPRX 1,000 FT NW OF STATE HWY 34 AND FM 985, AND 1/4 MI E OF BARDWELL CITY LIMITS ON THE N SIDE OF STATE HWY 34, ELLIS CO, TX | | | |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | | |
| Date Compliance History Prepared: | December 16, 2008 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | December 16, 2003 to December 16, 2008 | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | |
| Name: | Jennifer Graves | | Phone: | 956-430-6023 |

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 |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO | |

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 | 01/20/2004 | (302202) |
| 2 | 02/23/2004 | (302189) |
| 3 | 03/11/2004 | (302190) |
| 4 | 04/15/2004 | (302191) |
| 5 | 05/10/2004 | (354818) |
| 6 | 06/21/2004 | (302194) |
| 7 | 07/15/2004 | (354819) |
| 8 | 08/16/2004 | (354820) |
| 9 | 09/20/2004 | (354821) |
| 10 | 10/15/2004 | (354822) |
| 11 | 11/16/2004 | (383360) |
| 12 | 12/20/2004 | (383361) |
| 13 | 01/13/2005 | (383362) |
| 14 | 02/14/2005 | (383358) |
| 15 | 03/11/2005 | (383359) |
| 16 | 04/18/2005 | (442169) |
| 17 | 05/09/2005 | (442170) |

| | | |
|----|------------|----------|
| 18 | 06/09/2005 | (442171) |
| 19 | 07/14/2005 | (442172) |
| 20 | 08/05/2005 | (442173) |
| 21 | 09/19/2005 | (442174) |
| 22 | 10/13/2005 | (471098) |
| 23 | 11/21/2005 | (471099) |
| 24 | 12/19/2005 | (471100) |
| 25 | 01/20/2006 | (471101) |
| 26 | 02/21/2006 | (471096) |
| 27 | 03/17/2006 | (471097) |
| 28 | 04/18/2006 | (499913) |
| 29 | 05/22/2006 | (499914) |
| 30 | 06/16/2006 | (499915) |
| 31 | 07/21/2006 | (522016) |
| 32 | 08/04/2006 | (487921) |
| 33 | 08/24/2006 | (522017) |
| 34 | 09/22/2006 | (522018) |
| 35 | 10/20/2006 | (620871) |
| 36 | 11/22/2006 | (620873) |
| 37 | 12/27/2006 | (620875) |
| 38 | 01/09/2007 | (620877) |
| 39 | 02/07/2007 | (620863) |
| 40 | 03/19/2007 | (620864) |
| 41 | 04/15/2007 | (620865) |
| 42 | 05/09/2007 | (620866) |
| 43 | 06/20/2007 | (620867) |
| 44 | 07/08/2007 | (620868) |
| 45 | 08/15/2007 | (620869) |
| 46 | 09/18/2007 | (620870) |
| 47 | 10/10/2007 | (620872) |
| 48 | 11/21/2007 | (620874) |
| 49 | 12/24/2007 | (620876) |
| 50 | 01/14/2008 | (620878) |
| 51 | 02/15/2008 | (673066) |
| 52 | 03/11/2008 | (673067) |
| 53 | 04/22/2008 | (673068) |
| 54 | 06/23/2008 | (691145) |
| 55 | 06/23/2008 | (691146) |
| 56 | 07/17/2008 | (691147) |
| 57 | 08/13/2008 | (712030) |
| 58 | 10/12/2008 | (712031) |
| 59 | 10/27/2008 | (712032) |
| 60 | 12/12/2008 | (705319) |

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

| | | | | |
|--------------|--|----------|-----------------|----------|
| Date: | 03/31/2006 | (499913) | CN600676506 | |
| 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 | (620864) | CN600676506 | |
| 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: | 06/30/2007 | (620868) | CN600676506 | |
| 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: 07/31/2007 (620869) CN600676506
 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 (691146) CN600676506
 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: 06/30/2008 (691147) CN600676506
 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: 07/31/2008 (712030) CN600676506
 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 BARDWELL
RN101721199

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1930-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 Bardwell ("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 approximately 1,500 feet northeast of the intersection of Farm-to-Market Road 984 and State Highway 34, approximately 1,000 feet northwest of State Highway 34 and Farm-to-Market Road 985, and 1/4 mile east of Bardwell city limits on the north side of State Highway 34 in Ellis 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 December 17, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Three Hundred Thirty-Five Dollars (\$2,335) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The City has paid One Thousand Eight Hundred Sixty-Eight Dollars (\$1,868) of the administrative penalty and Four Hundred Sixty-Seven Dollars (\$467) 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 May 19, 2008, reseeded the biological reactor with mixed liquor from another wastewater treatment plant;
 - b. During August 2008, returned to compliance with the permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013675001; and
 - c. On November 1, 2008, submitted the annual sludge report for the monitoring period ending July 31, 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 the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0013675001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on October 13, 2008, and shown in the following effluent table:

| EFFLUENT VIOLATION TABLE | | | | | | | |
|--|-----------------------|--|--|--|---------------------------------|-------------------------------|-------------------------------|
| | DO Monthly Min. | BOD ₅ Daily Avg. Conc. | BOD ₅ Daily Avg. Loading | BOD ₅ Max. Single Grab | TSS Daily Avg. Loading | TSS Daily Avg. Conc. | TSS Max. Single Grab |
| Months | Limit = 4.0 mg/L | Limit = 10 mg/L | Limit = 6.7 lbs/day | Limit = 35 mg/L | Limit = 10 lbs/day | Limit = 15 mg/L | Limit = 60 mg/L |
| 7/31/2007 | c | c | c | c | c | 17.80 | 75.0 |
| 5/31/2008 | 3.1 | 45.30 | 16.80 | 67.0 | 14.6 | 39.30 | c |
| 6/30/2008 | 3.5 | 24.80 | c | 49.0 | c | 22.00 | c |
| DO = dissolved oxygen BOD ₅ = biochemical oxygen demand TSS = total suspended solids avg. = average conc. = concentration | | | | lbs/day = pounds per day mg/L = milligrams per liter min. = minimum max. = maximum c = compliant | | | |

- Failed to submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013675001, Sludge Provisions, as documented during a record review conducted on October 13, 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 Bardwell, Docket No. 2008-1930-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

4/17/2009

~~March 13, 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.

J.B. Lowry Jr.
Signature

March 13, 2009
Date

J.B. LOWRY, JR.
Name (Printed or typed)
Authorized Representative of
City of Bardwell

Acting 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.

BEFORE ME, ON THIS DATE, March 13, 2009 PERSONALLY APPEARED THE ABOVE, J. B. Lowry, Jr., WHO DULY SIGNED THE AGREEMENT.

Ardeena Wood
Notary



