

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0254-MWD-E **TCEQ ID:** RN101721686 **CASE NO.:** 37183

**RESPONDENT NAME:** City of China

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of China, located adjacent to South China Road and approximately 1.5 miles south of United States Highway 90, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 22, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> 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  <b>Respondent:</b> The Honorable William T. Sanders, Mayor, City of China, P.O. Box 248, China, Texas 77613  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 27, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 13, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with the permitted effluent limitations for dissolved oxygen, biochemical oxygen demand, total residual chlorine, 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. 12104001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6].</p> <p>2) Failure to timely submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 12104001, Sludge Provisions].</p>	<p><b>Total Assessed:</b> \$10,322</p> <p><b>Total Deferred:</b> \$2,064  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$8,258</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By September 25, 2008, hired a more experienced operator;</p> <p>b. On February 25, 2009, submitted the annual sludge report for the monitoring period ending July 31, 2008; and</p> <p>c. By February 27, 2009, updated operational guidance and conducted employee training to ensure that reporting requirements are properly accomplished.</p> <p><b>Ordering Provisions:</b></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. 12104001, 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 receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0012104001

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

<b>TCEQ</b> DATES	Assigned	17-Feb-2009			
	PCW	20-Feb-2009	Screening	20-Feb-2009	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of China		
Reg. Ent. Ref. No.	RN101721686		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37183	No. of Violations	2
Docket No.	2009-0254-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	<b>\$4,100</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	167.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i> <b>\$6,847</b>
Notes	Enhancement due to 24 self-reported effluent violations, one NOV with same or similar violations, one NOV with unrelated violations and two final enforcement orders containing a denial of liability.	
<b>Culpability</b>	No 0.0% Enhancement	<i>Subtotal 4</i> <b>\$0</b>
Notes	The Respondent does not meet the culpability criteria.	
<b>Good Faith Effort to Comply Total Adjustments</b>		<i>Subtotal 5</i> <b>\$10</b>
<b>Economic Benefit</b>	0.0% Enhancement*	<i>Subtotal 6</i> <b>\$0</b>
Total EB Amounts	\$1,342	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$15,120	

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	<b>\$10,937</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-5.6%	<i>Adjustment</i>	<b>-\$615</b>
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes	Recommend reduction so that monthly self-reported effluent violations do not overly impact the penalty amount.		
		<i>Final Penalty Amount</i>	<b>\$10,322</b>

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	<b>\$10,322</b>
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<b>DEFERRAL</b>	20.0% Reduction	<i>Adjustment</i>	<b>-\$2,064</b>
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		

<b>PAYABLE PENALTY</b>	<b>\$8,258</b>
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**Screening Date** 20-Feb-2009

**Docket No.** 2009-0254-MWD-E

**PCW**

**Respondent:** City of China

Policy Revision 2 (September 2002)

**Case ID No.** 37183

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101721686

**Media [Statute]** Water Quality

**Enf. Coordinator** Jennifer Graves

### 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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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)** 167%

>> **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 24 self-reported effluent violations, one NOV with same or similar violations, one NOV with unrelated violations and two final enforcement orders containing a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 167%

<b>Screening Date</b>	20-Feb-2009	<b>Docket No.</b>	2009-0254-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of China			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	37183			PCW Revision October 30, 2008
<b>Reg. Ent. Reference No.</b>	RN101721686			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Jennifer Graves			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12104001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6.			
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations, as documented during a record review on October 27, 2008, and shown in the attached effluent table.			
		<b>Base Penalty</b>	\$10,000	

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>			
	Major	Moderate	Minor	
	Actual	Potential	Percent	10%
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

**>> Programmatic Matrix**

	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	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. Dissolved oxygen, total residual chlorine, 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**

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an x

daily	<input type="checkbox"/>
weekly	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

**Violation Base Penalty**

Four quarterly events are recommended.

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**  **Statutory Limit Test**

Estimated EB Amount  Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of China  
**Case ID No.** 37183  
**Reg. Ent. Reference No.** RN101721686  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment	\$3,500	30-Sep-2007	31-Dec-2009	2.25	\$26	\$526	\$552
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$11,085	30-Sep-2007	25-Sep-2008	0.99	\$37	\$731	\$767
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	\$185	30-Sep-2007	27-Feb-2009	1.41	\$13	n/a	\$13
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 purchase and install a floating aerator. Dated required is the initial month of noncompliance and final date is the expected date of compliance (December 31, 2009). Estimated cost to hire a more experienced operator. Date required is the initial month of noncompliance and final date is the date the operator was hired (September 25, 2008). Actual cost to update operational guidance and to attend wastewater operator training to ensure that operational requirements are properly accomplished. Date required is the initial month of noncompliance and final date is the date of compliance (February 27, 2009).

**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 \$14,770

TOTAL \$1,333

<b>Screening Date</b> 20-Feb-2009	<b>Docket No.</b> 2009-0254-MWD-E
<b>Respondent</b> City of China	<b>PCW</b>
<b>Case ID No.</b> 37183	<small>Policy Revision 2 (September 2002)</small>
<b>Reg. Ent. Reference No.</b> RN101721686	<small>PCW Revision October 30, 2008</small>
<b>Media [Statute]</b> Water Quality	
<b>Enf. Coordinator</b> Jennifer Graves	
<b>Violation Number</b> <input type="text" value="2"/>	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. 12104001, Sludge Provisions.
<b>Violation Description</b>	Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, as documented during a record review conducted on October 27, 2008.
<b>Base Penalty</b>	<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"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>	

**>> Programmatic Matrix**

	Falsification			
	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	x	
				<b>Percent</b> <input type="text" value="1%"/>
<b>Matrix Notes</b>	Over 70% of this permit requirement was met.			
				<b>Adjustment</b> <input type="text" value="\$9,900"/>

**Adjustment**

**Violation Events**

Number of Violation Events	<input type="text" value="1"/>		Number of violation days	<input type="text" value="172"/>
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$100"/>	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
One single event is recommended.				

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	x
N/A	<small>(mark with x)</small>	
<b>Notes</b>	The Respondent achieved compliance by February 27, 2009.	
<b>Violation Subtotal</b> <input type="text" value="\$90"/>		

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$10"/>	Violation Final Penalty Total <input type="text" value="\$243"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$243"/>	

## Economic Benefit Worksheet

**Respondent** City of China  
**Case ID No.** 37183  
**Reg. Ent. Reference No.** RN101721686  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$100	1-Sep-2008	25-Feb-2009	0.48	\$0	\$3	\$3
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	\$250	1-Sep-2008	27-Feb-2009	0.49	\$6	n/a	\$6
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 and to update operational guidance and conduct employee training to ensure that reporting requirements are properly accomplished. Date Required is the date the report was due. Final Dates are the date that the annual sludge report was submitted (February 25, 2009) and the date by which operational guidance was updated and employee training was conducted (February 27, 2009).

### 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

\$350

**TOTAL**

\$10

**EFFLUENT VIOLATION TABLE**

City of China

TPDES Permit No. 12104001

Docket No. 2009-0254-MWD-E

	DO Monthly Min.	BOD <sub>5</sub> Daily Avg. Conc.	BOD <sub>5</sub> Max. Single Grab	Total Residual Chlorine Min.	Total Residual Chlorine Max.	TSS Daily Avg. Conc.	TSS Max. Single Grab
Months	Limit = 4.0 mg/L	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 1.0 mg/L	Limit = 4.0 mg/L	Limit = 15 mg/L	Limit = 60 mg/L
9/30/2007	3.9	21.55	78.0	c	c	41.75	158.0
10/31/2007	c	c	c	0.67	5.40	16.10	c
11/30/2007	c	c	c	0.76	c	c	c
12/31/2007	c	c	c	c	4.12	c	c
1/31/2008	c	c	c	c	c	15.20	c
5/31/2008	c	17.22	c	c	c	19.40	c
6/30/2008	c	11.65	c	c	c	19.02	c
7/31/2008	c	16.40	41.4	c	c	c	c

DO = dissolved oxygen  
 BOD<sub>5</sub> = biochemical oxygen demand  
 TSS = total suspended solids  
 avg. = average  
 conc. = concentration

mg/L = milligrams per liter  
 min. = minimum  
 max. = maximum  
 c = compliant



# Compliance History Report

Customer/Respondent/Owner-Operator: CN600704621 City of China Classification: AVERAGE Rating: 3.33  
Regulated Entity: RN101721686 CITY OF CHINA Classification: AVERAGE Site Rating: 3.97

ID Number(s): WASTEWATER PERMIT WQ0012104001  
WASTEWATER PERMIT TPDES0071650  
WASTEWATER PERMIT TX0071650  
WASTEWATER LICENSING LICENSE WQ0012104001

Location: ADJ. TO S CHINA RD AND APPRX 1.5 M  
S OF US HWY 90 IN JEFFERSON CO, TX

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: February 18, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 18, 2004 to February 18, 2009

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.

Effective Date: 09/26/2004

ADMINORDER 2003-0383-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: Operations Req No 1 PERMIT

Description: Failure to properly operate and maintain all systems of collection, treatment, and disposal.

Classification: Moderate

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

Rqmt Prov: Monitoring & Reporting Req No 7 PERMIT

Description: Failure to report 40% noncompliances to the Commission within the required notification period.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations PC1 PERMIT

Description: Failure to comply with permitted effluent requirements for TSS and BOD5.

Effective Date: 12/22/2006

ADMINORDER 2005-1089-MLM-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

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

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	03/15/2004	(312259)
2	03/22/2004	(358992)
3	03/22/2004	(358994)
4	03/29/2004	(312268)
5	03/29/2004	(423654)
6	04/15/2004	(312260)
7	05/10/2004	(312262)
8	06/21/2004	(272170)
9	06/21/2004	(312265)
10	07/26/2004	(358991)
11	09/03/2004	(358993)
12	10/18/2004	(358996)
13	11/08/2004	(358997)
14	12/09/2004	(358995)
15	12/13/2004	(385688)
16	01/20/2005	(385689)
17	02/15/2005	(385685)
18	03/14/2005	(385686)
19	04/18/2005	(385687)
20	05/18/2005	(423652)
21	06/15/2005	(423653)
22	07/19/2005	(444453)
23	07/27/2005	(396710)
24	08/15/2005	(444454)
25	09/19/2005	(444455)
26	10/24/2005	(444456)
27	11/17/2005	(432074)
28	11/22/2005	(475079)
29	12/27/2005	(475080)
30	01/23/2006	(475081)
31	02/21/2006	(475078)
32	03/16/2006	(502661)
33	04/24/2006	(502662)
34	05/23/2006	(502663)
35	06/26/2006	(502664)
36	07/24/2006	(524986)
37	09/05/2006	(524987)
38	09/19/2006	(524988)
39	10/24/2006	(584220)
40	11/13/2006	(514811)

41 11/21/2006 (584221)  
 42 12/21/2006 (584222)  
 43 01/22/2007 (584223)  
 44 02/27/2007 (584214)  
 45 03/08/2007 (584215)  
 46 03/16/2007 (542795)  
 47 04/20/2007 (584216)  
 48 05/22/2007 (584217)  
 49 06/21/2007 (584218)  
 50 07/23/2007 (584219)  
 51 08/22/2007 (623147)  
 52 09/20/2007 (623148)  
 53 10/17/2007 (623149)  
 54 10/28/2007 (598282)  
 55 11/21/2007 (623150)  
 56 12/14/2007 (623151)  
 57 01/17/2008 (674536)  
 58 02/22/2008 (674534)  
 59 03/13/2008 (674535)  
 60 04/22/2008 (692871)  
 61 05/12/2008 (692872)  
 62 06/23/2008 (714042)  
 63 07/21/2008 (714043)  
 64 08/18/2008 (714044)  
 65 10/01/2008 (730070)  
 66 11/17/2008 (730072)  
 67 12/15/2008 (730073)  
 68 12/17/2008 (730071)  
 69 02/13/2009 (706530)

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

Date: 04/30/2004 (312262) CN600704621  
 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: 11/30/2004 (385688) CN600704621  
 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: 12/31/2004 (385689) CN600704621  
 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: 01/31/2005 (385685) CN600704621  
 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: 02/28/2005 (385686) CN600704621  
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: 03/31/2005 (385687) CN600704621  
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 (423653) CN600704621  
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 (444454) CN600704621  
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: 08/31/2005 (444455) CN600704621  
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: 09/30/2005 (444456) CN600704621  
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: 11/17/2005 (432074) CN600704621  
Self Report? NO Classification: Minor  
Citation: OpR 1 PERMIT  
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Citation: OpR 1 PERMIT  
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate  
Citation: OpR 1 PERMIT  
Description: Failure 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)  
Description: Failure to provide for auxiliary power as required.

Self Report? NO Classification: Minor  
Citation: OpR PERMIT  
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Citation: PC1.A PERMIT  
Description: Failure to report the correct analytical results on the discharge monitoring reports (DMRs).

Self Report? NO Classification: Minor  
Citation: M&RR 3.C PERMIT  
Description: Failure to maintain a complete standard check log for the Hach colorimeter

Date: 07/31/2006 (524987) CN600704621  
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 (584220) CN600704621  
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: 10/31/2006 (584221) CN600704621  
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: 11/13/2006 (514811) CN600704621  
Self Report? NO Classification: Minor  
Citation: OpR 1 PERMIT  
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Citation: OpR 1 PERMIT  
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate  
Citation: OpR 1 PERMIT  
Description: Failure 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)  
Description: Failure to provide for auxiliary power as required.

Self Report? NO Classification: Minor  
Citation: OpR PERMIT  
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Citation: PC1.A PERMIT  
Description: Failure to report the correct analytical results on the discharge monitoring reports

(DMRs).

Self Report?	NO	Classification:	Minor
Citation:	M&RR 3.C PERMIT		
Description:	Failure to maintain a complete standard check log for the Hach colorimeter		
Self Report?	NO	Classification:	Minor
Citation:	SP I A1, Pg. 12 PERMIT		
Description:	Failure by the City of China to properly complete sludge manifests.		
Self Report?	NO	Classification:	Minor
Citation:	OpR1 PERMIT		
Description:	Failure by the City of China to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Moderate
Citation:	PC2g PERMIT		
Description:	Failure by the City of China to prevent unauthorized discharges into or adjacent to the waters of the state.		
Date:	03/31/2007 (584216)	CN600704621	
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:	09/30/2007 (623149)	CN600704621	
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 (623150)	CN600704621	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2007 (623151)	CN600704621	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2007 (674536)	CN600704621	
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 (674534)	CN600704621	
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 (714042)	CN600704621	
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 (714043) CN600704621  
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 (714044) CN600704621  
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: 10/31/2008 (730072) CN600704621  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2008 (730073) CN600704621  
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 CHINA  
RN101721686

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0254-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 China ("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 adjacent to South China Road and approximately 1.5 miles south of United States Highway 90 in Jefferson 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 February 18, 2009.
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 Ten Thousand Three Hundred Twenty-Two Dollars (\$10,322) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Eight Thousand Two Hundred Fifty-Eight Dollars (\$8,258) of

- the administrative penalty and Two Thousand Sixty-Four Dollars (\$2,064) 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. By September 25, 2008, hired a more experienced operator;
    - b. On February 25, 2009, submitted the annual sludge report for the monitoring period ending July 31, 2008; and
    - c. By February 27, 2009, updated operational guidance and conducted employee training to ensure that reporting requirements are properly accomplished.
  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 Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12104001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, as documented during a record review on October 27, 2008, and shown in the following table:

EFFLUENT VIOLATION TABLE							
	DO Monthly Min.	BOD <sub>5</sub> Daily Avg. Conc.	BOD <sub>5</sub> Max. Single Grab	Total Residual Chlorine Min.	Total Residual Chlorine Max.	TSS Daily Avg. Conc.	TSS Max. Single Grab
Months	Limit = 4.0 mg/L	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 1.0 mg/L	Limit = 4.0 mg/L	Limit = 15 mg/L	Limit = 60 mg/L
9/30/2007	3.9	21.55	78.0	c	c	41.75	158.0
10/31/2007	c	c	c	0.67	5.40	16.10	c
11/30/2007	c	c	c	0.76	c	c	c
12/31/2007	c	c	c	c	4.12	c	c
1/31/2008	c	c	c	c	c	15.20	c
5/31/2008	c	17.22	c	c	c	19.40	c
6/30/2008	c	11.65	c	c	c	19.02	c
7/31/2008	c	16.40	41.4	c	c	c	c

DO = dissolved oxygen  
BOD<sub>5</sub> = biochemical oxygen demand  
TSS = total suspended solids  
avg. = average  
conc. = concentration

mg/L = milligrams per liter  
min. = minimum  
max. = maximum  
c = compliant

- Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 12104001, Sludge Provisions, as documented during a record review conducted on October 27, 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 China, Docket No. 2009-0254-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 the City shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 12104001, 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 receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-18307

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

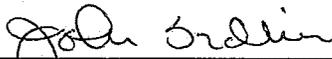
occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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

5/12/2009  
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

4-23-09  
Date

William T. Sanders  
Name (Printed or typed)  
Authorized Representative of  
City of China

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.