

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0082-MWD-E **TCEQ ID:** RN102079282 **CASE NO.:** 37035

**RESPONDENT NAME:** City of West

<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"/> IMMEDIATE 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> West Wastewater Treatment Facility, located approximately 2,000 feet northeast of the intersection of Farm-to-Market Road 2311 and Farm-to-Market Road 2114 in West, McLennan County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</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 May 25, 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> Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Jerrel Bolton, Mayor, City of West, P.O. Box 97, West, Texas 76691  <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> November 21, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 8, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with permit effluent limits for ammonia nitrogen 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. WQ0010544001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>	<p><b>Total Assessed:</b> \$7,260</p> <p><b>Total Deferred:</b> \$1,452  <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> \$5,808</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) During September 2008, adjusted the speed of the aerators in combination with the water level in the aeration basin; and</p> <p>b) During October 2008, returned to compliance with the permitted effluent limits of TPDES Permit No. WQ0010544001.</p>

Additional ID No(s): WQ0010544001



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	12-Jan-2009		
	PCW	25-Feb-2009	Screening	15-Jan-2009
			EPA Due	

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of West		
Reg. Ent. Ref. No.	RN102079282		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37035	No. of Violations	1
Docket No.	2009-0082-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
		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>	<b>Subtotal 1</b>	<b>\$3,000</b>
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

Compliance History	167.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$5,010</b>
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Notes

The penalty is enhanced due to 28 self-reported monthly effluent violations, one NOV with violations same/similar to those cited in this action, one NOV without same/similar violations, and one final agreed order containing a denial of liability.

Culpability	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$750</b>
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Economic Benefit	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$26
Approx. Cost of Compliance	\$500

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$7,260</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	<b>\$7,260</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$7,260</b>
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	<b>-\$1,452</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$5,808</b>
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<b>Screening Date</b> 15-Jan-2009	<b>Docket No.</b> 2009-0082-MWD-E	<b>PCW</b>
<b>Respondent</b> City of West		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 37035		<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN102079282		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Steve Villatoro		

### 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 ( <i>number of NOVs meeting criteria</i> )	29	145%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	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)** 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**

The penalty is enhanced due to 28 self-reported monthly effluent violations, one NOV with violations same/similar to those cited in this action, one NOV without same/similar violations, and one final agreed order containing a denial of liability.

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

<b>Screening Date</b> 15-Jan-2009	<b>Docket No.</b> 2009-0082-MWD-E	<b>PCW</b>
<b>Respondent</b> City of West		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 37035		<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN102079282		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Steve Villatoro		
<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. WQ0010544001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6	
<b>Violation Description</b>	Failed to comply with permit effluent limits, as documented during a record review conducted on November 21, 2008 and shown in the attached table.	
	<b>Base Penalty</b>	\$10,000

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

OR		Harm			
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>			x	
	<b>Potential</b>				<b>Percent</b> 10%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0%

**Matrix Notes**  
 A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow 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** \$9,000

\$1,000

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty** \$3,000

Three quarterly events are recommended.

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

**Notes** The Respondent achieved compliance during October 2008.

**Violation Subtotal** \$2,250

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

**Estimated EB Amount** \$26 **Violation Final Penalty Total** \$7,260

**This violation Final Assessed Penalty (adjusted for limits)** \$7,260

## Economic Benefit Worksheet

**Respondent** City of West  
**Case ID No.** 37035  
**Reg. Ent. Reference No.** RN102079282  
**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
<small>No commas or \$</small>							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$500	31-Jan-2008	31-Oct-2008	0.75	\$1	\$25	\$26
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 costs to determine the most effective speed of the aerators in combination with the water level of the aeration basin to achieve compliance with ammonia and dissolved oxygen limits. Date required is the first date of non-compliance. 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**

\$26

EFFLUENT VIOLATION TABLE				
City of West				
TPDES Permit No. WQ0010544001				
Docket No. 2009-0082-MWD-E				
Months	Total Ammonia Nitrogen Single Grab Conc.	Total Ammonia Nitrogen Daily Avg. Conc.	Total Ammonia Nitrogen Daily Avg. Loading	Dissolved Oxygen Min.
	Limit = 15 mg/L	Limit = 2 mg/L	Limit = 7.5 lbs/day	Limit = 6.0
1/31/2008	16.4	4.3	8.0	c
6/30/2008	17.1	9.5	10.2	4.9
7/31/2008	17.0	11.3	14.00	5.3
8/31/2008	c	11.3	22.40	5.2

conc. = concentration  
 lbs/day = pounds per day  
 c = compliant

avg. = average  
 mg/L = milligrams per liter  
 min. = minimum



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600755243	City of West	Classification: AVERAGE	Rating: 3.05
Regulated Entity:	RN102079282	CITY OF WEST	Classification: AVERAGE	Site Rating: 3.15
ID Number(s):	WASTEWATER	PERMIT		WQ0010544001
	WASTEWATER	PERMIT		TPDES0020451
	WASTEWATER	PERMIT		TX0020451
	WASTEWATER LICENSING	LICENSE		WQ0010544001
Location:	approximately 2,000 feet northeast of the intersection of Farm-to-Market Road 2311 and Farm-to-Market Road 2114, West, McLennan County, Texas			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	January 16, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 16, 2004 to January 16, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Steve Villatoro	Phone:	512-239-4930	

### 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: 06/29/2007   | ADMINORDER 2006-1436-MWD-E |
| Classification: Major  |                            |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(4)             |                            |
| 30 TAC Chapter 305, SubChapter F 305.125(5)  |                            |
| Rqmt Prov: Permit Conditions No. 2(d) PERMIT   |                            |
| Description: Failure to prevent the unauthorized discharge and accumulation of sludge in the receiving stream. |                            |
| Classification: Moderate   |                            |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)             |                            |
| Rqmt Prov: Effluent Limitations PERMIT   |                            |
| Description: Failure to comply with the permitted effluent limitation of 6.0 mg/L for minimum DO.              |                            |
- 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  | 02/12/2004 | (297238) |
| 2  | 02/17/2004 | (297247) |
| 3  | 04/28/2004 | (352911) |
| 4  | 04/28/2004 | (352912) |
| 5  | 05/17/2004 | (352913) |
| 6  | 07/06/2004 | (352914) |
| 7  | 07/19/2004 | (352915) |
| 8  | 08/16/2004 | (352916) |
| 9  | 10/18/2004 | (352917) |
| 10 | 10/18/2004 | (352918) |
| 11 | 12/07/2004 | (382237) |
| 12 | 01/24/2005 | (382238) |
| 13 | 01/24/2005 | (382239) |
| 14 | 03/09/2005 | (382236) |
| 15 | 04/26/2005 | (420089) |
| 16 | 04/26/2005 | (420090) |
| 17 | 06/21/2005 | (420091) |
| 18 | 06/27/2005 | (420092) |
| 19 | 08/22/2005 | (441206) |
| 20 | 08/22/2005 | (441207) |

21	10/21/2005	(469076)
22	10/21/2005	(469077)
23	01/09/2006	(469079)
24	01/09/2006	(469080)
25	04/24/2006	(498629)
26	04/24/2006	(498630)
27	04/24/2006	(498631)
28	04/24/2006	(498632)
29	07/14/2006	(520626)
30	07/14/2006	(520627)
31	08/25/2006	(510288)
32	10/02/2006	(576212)
33	10/18/2006	(576213)
34	10/30/2006	(576214)
35	10/30/2006	(576215)
36	03/05/2007	(576216)
37	03/05/2007	(576217)
38	03/05/2007	(576218)
39	03/22/2007	(576208)
40	03/22/2007	(576209)
41	05/30/2007	(576210)
42	05/30/2007	(576211)
43	06/06/2007	(557341)
44	08/14/2007	(572062)
45	02/01/2008	(672321)
46	02/01/2008	(672322)
47	02/01/2008	(672323)
48	02/01/2008	(672324)
49	02/01/2008	(672325)
50	02/01/2008	(672326)
51	02/01/2008	(672327)
52	02/01/2008	(672328)
53	03/05/2008	(636092)
54	05/22/2008	(654636)
55	07/15/2008	(690240)
56	07/15/2008	(690241)
57	07/15/2008	(690242)
58	07/15/2008	(690243)
59	07/15/2008	(690244)
60	10/31/2008	(711066)
61	10/31/2008	(711067)
62	10/31/2008	(711068)
63	10/31/2008	(711069)
64	01/08/2009	(708999)

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

Date:	02/29/2004 (352911)	CN600755243	
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 (352912)	CN600755243	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2004 (352913)	CN600755243	
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 (352915)	CN600755243	
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 (352916)	CN600755243	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2004 (352917)	CN600755243	
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:	10/31/2004 (382237)	CN600755243	

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 (382238)	CN600755243	
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 (382239)	CN600755243	
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 (382236)	CN600755243	
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 (420089)	CN600755243	
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 (420090)	CN600755243	
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 (420091)	CN600755243	
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 (420092)	CN600755243	
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 (469076)	CN600755243	
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:	10/31/2005 (469079)	CN600755243	
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:	11/30/2005 (469080)	CN600755243	
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:	08/01/2006 (576214)	CN600755243	
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:	10/01/2006 (576216)	CN600755243	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007 (576210)	CN600755243	
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:	05/31/2007 (672321)	CN600755243	
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:	06/06/2007 (557341)	CN600755243	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d) Operational Requirements; No. 1 Pg. 9 PERMIT		

Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 319, SubChapter A 319.11(a) 30 TAC Chapter 319, SubChapter A 319.12(b) Monitoring and Reporting Requirements PERMIT		
Description:	Failure by the permittee to comply with test procedures specified in the 30 TAC 319.11 - 319.12.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations and Monitoring Req. PERMIT		
Description:	Failure by the permittee to maintain a chlorine residual between 1.0 mg/l and 4.0 mg/l.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Marketing and Distribution Man. Prac. PERMIT		
Description:	Failure to cycle out stockpiled and stored sludge every 24 months.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 317 317.3(a) 30 TAC Chapter 317 317.3(b)(2)(A) 30 TAC Chapter 317 317.3(e)(5) Operational Requirements PERMIT		
Description:	Failure to properly operate and maintain all systems of collection, treatment, and disposal.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Marketing and Distribution Mgmt. Prac. PERMIT		
Description:	Failure by the permittee to provide a lining and/or certification of the lining for the sludge processing pad area.		
Date:	06/30/2007 (672322)	CN600755243	
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 (672323)	CN600755243	
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 (690240)	CN600755243	
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:	02/29/2008 (636092)	CN600755243	
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d) Operational Requirements; No. 1 Pg. 9 PERMIT		
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 305, SubChapter F 305.125(1) Marketing and Distribution Mgmt. Prac. PERMIT		
Description:	Failure by the permittee to provide a lining and/or certification of the lining for the sludge processing pad area.		
Date:	06/30/2008 (711066)	CN600755243	
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 (711067)	CN600755243	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2008 (711068)	CN600755243	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2008 (711069)	CN600755243	
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 WEST  
RN102079282

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0082-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of West ("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 facility approximately 2,000 feet northeast of the intersection of Farm-to-Market Road 2311 and Farm-to-Market Road 2114 in West, McLennan 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 January 13, 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 Seven Thousand Two Hundred Sixty Dollars (\$7,260) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The City has paid Five Thousand Eight Hundred Eight Dollars (\$5,808) of the administrative penalty and One Thousand Four Hundred Fifty-Two Dollars (\$1,452) 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:
    - i. During September 2008, adjusted the speed of the aerators in combination with the water level in the aeration basin; and
    - ii. During October 2008, returned to compliance with the permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010544001.
  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 failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010544001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on November 21, 2008 and shown in the following table:

EFFLUENT VIOLATION TABLE				
Months	Total Ammonia-Nitrogen Single Grab Conc.	Total Ammonia-Nitrogen Daily Avg. Conc.	Total Ammonia-Nitrogen Daily Avg. Loading	Dissolved Oxygen Min.
	Limit = 15 mg/L	Limit = 2 mg/L	Limit = 7.5 lbs/day	Limit = 6.0
1/31/2008	16.4	4.3	8.0	c
6/30/2008	17.1	9.5	10.2	4.9
7/31/2008	17.0	11.3	14.00	5.3
8/31/2008	c	11.3	22.40	5.2

conc. = concentration

lbs/day = pounds per day

c = compliant

avg. = average

mg/L = milligrams per liter

Min. = minimum

### 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 West, Docket No. 2009-0082-MWD-E" to:

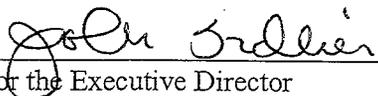
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

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 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.
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

  
\_\_\_\_\_  
For the Executive Director

4/28/2009  
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

3-31-2009  
Date

Jerrel Bolton  
Name (Printed or typed)  
Authorized Representative of  
City of West

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.

