

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0534-MWD-E TCEQ ID: RN103014809 CASE NO.: 37458

RESPONDENT NAME: Town of Buckholts

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: Town of Buckholts, located on the north side of the Town of Buckholts, approximately 1,600 feet northeast of U.S. Highway 190 and approximately 1,000 feet east of Farm-to-Market Road 1915, Milam County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</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 July 20, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Hal Senkel, Mayor, Town of Buckholts, P.O. Box 117, Buckholts, Texas 76518 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: January 7, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 9, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for total chlorine [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011875001, Effluent Limitations and Monitoring Requirements No. 2].</p>	<p>Total Assessed: \$3,840</p> <p>Total Deferred: \$768 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,072</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 by October 31, 2008, the Respondent returned to compliance with the permitted effluent limits by adjusting the chlorinator.</p>

Additional ID No(s): WQ0011875001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Apr-2009	Screening	15-Apr-2009	EPA Due	
	PCW	16-Apr-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Town of Buckholts
Reg. Ent. Ref. No.	RN103014809
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37458	No. of Violations	1
Docket No.	2009-0534-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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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	117.0% Enhancement	Subtotals 2, 3, & 7	\$2,340
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Notes
An enhancement is recommended for having 19 NOV's for self-reported effluent data, one NOV for non-similar violations, and one Agreed Order with denial language within the last five years.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1
Approx. Cost of Compliance \$50
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,840
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$3,840
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,840
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DEFERRAL	20.0% Reduction	Adjustment	-\$768
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,072
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Screening Date 15-Apr-2009

Docket No. 2009-0534-MWD-E

PCW

Respondent Town of Buckholts

Policy Revision 2 (September 2002)

Case ID No. 37458

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103014809

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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)	19	95%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 117%

>> 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

An enhancement is recommended for having 19 NOVs for self-reported effluent data, one NOV for non-similar violations, and one Agreed Order with denial language within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 117%

Screening Date 15-Apr-2009		Docket No. 2009-0534-MWD-E		PCW
Respondent Town of Buckholts		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37458		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN103014809				
Media [Statute] Water Quality				
Enf. Coordinator Samuel Short				
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. WQ0011875001, Effluent Limitations and Monitoring Requirements No. 2			
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review conducted on January 7, 2009 and shown in the attached table.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>	
	Potential	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	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 as a result of the violation.			
Adjustment				\$9,000
				\$1,000
Violation Events				
Number of Violation Events <input type="text" value="2"/>		Number of violation days <input type="text" value="122"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Two quarterly events are recommended.				Violation Base Penalty <input type="text" value="\$2,000"/>
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$500"/>	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>		
N/A	<input type="text"/>	<small>(mark with x)</small>		
Notes	The Respondent achieved compliance by October 31, 2008.			
Violation Subtotal				\$1,500
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$1"/>		Violation Final Penalty Total <input type="text" value="\$3,840"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$3,840"/>

Economic Benefit Worksheet

Respondent Town of Buckholts
Case ID No. 37458
Reg. Ent. Reference No. RN103014809
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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	30-Jun-2008	31-Oct-2008	0.34	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost to adjust the chlorinator. Date required is the first date of non-compliance. The final date is the date the Town returned to compliance with the permitted effluent limits.

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 \$50

TOTAL \$1

Effluent Limit Violation Table

table rev.

Respondent	Town of Buckholts
ID Number(s)	WQ0011875001
Docket Number	2009-0534-MWD-E
Enf. Coordinator	Samuel Short
Corresponds to Violation Number:	1

EFFLUENT PARAMETER

Permit Limit

	Total Chlorine Residual monthly maximum												
Month/Year	4.0 mg/L												
6/30/2008	5												
7/31/2008	5												
8/31/2008	5												
9/30/2008	6.1												

Name
milligrams per liter

Abbreviation
mg/L

Compliance History Report

Customer/Respondent/Owner-Operator: CN602296899 Town of Buckholts Classification: AVERAGE Rating: 4.50
 Regulated Entity: RN103014809 TOWN OF BUCKHOLTS Classification: AVERAGE Site Rating: 4.50

ID Number(s):
 WASTEWATER PERMIT WQ0011875001
 WASTEWATER PERMIT TPDES0073008
 WASTEWATER PERMIT TX0073008
 WASTEWATER LICENSING LICENSE WQ0011875001

Location: LOCATED ON THE NORTH SIDE OF THE TOWN OF BUCKHOLTS, APPROX 1600 FEET NORTHEAST OF US HWY 190 AND APPROX 1000 FEET EAST OF FARM-TO-MARKET ROAD 1915 IN MILAM COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: April 15, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 15, 2004 to April 15, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Samuel Short Phone: (512) 239-5363

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator 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

Effective Date: 06/13/2004 ADMINORDER 2003-0013-MWD-E
 Classification: Moderate
 Citation: TWC Chapter 26 26.121
 Rqmt Prov: Not specified PERMIT
 Description: Failure to report effluent violation greater than 40% of the permitted limit within five working days of becoming aware of the noncompliance.

Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125
 Rqmt Prov: 2e PERMIT
 Description: Failure to notify the TCEQ that alterations to the permitted design of the facility were being made.

Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: 7 PERMIT
 Description: Failure to comply with the permitted limits at outfall No. 001, for BOD, TSS, DO and

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

Rqmt Prov: III G PERMIT
Description: Failure to submit the annual sludge report.

Classification: Moderate

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

Rqmt Prov: 4 PERMIT

Description: Failure to prevent a discharge of visible foam into the creek.

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	05/10/2004	(359231)
N/A		
2	06/09/2004	(359232)
3	07/14/2004	(359233)
4	08/13/2004	(359234)
5	09/09/2004	(359235)
6	10/14/2004	(359236)
7	11/09/2004	(385848)
8	01/10/2005	(385849)
9	01/11/2005	(385850)
10	02/14/2005	(385846)
11	03/16/2005	(385847)
12	04/13/2005	(423782)
13	04/13/2005	(444586)
14	05/19/2005	(423780)
15	06/07/2005	(423781)
16	07/12/2005	(444587)
17	09/15/2005	(444589)
18	09/19/2005	(444588)
19	11/07/2005	(475297)
20	12/13/2005	(475298)
21	01/10/2006	(475299)
22	02/09/2006	(475295)
23	03/16/2006	(475296)
24	04/13/2006	(502806)
25	05/10/2006	(502807)
26	06/22/2006	(502808)
27	07/11/2006	(525143)
28	08/15/2006	(525144)
29	09/12/2006	(525145)
30	10/12/2006	(584528)
31	11/10/2006	(584529)
32	12/21/2006	(584530)
33	01/19/2007	(584531)
34	02/12/2007	(584522)
35	03/12/2007	(584523)
36	05/02/2007	(584524)
37	05/14/2007	(584525)
38	06/15/2007	(584526)
39	08/02/2007	(584527)

40 08/26/2007 (604280)
 41 09/26/2007 (604281)
 42 10/09/2007 (604282)
 43 10/22/2007 (598622)
 44 12/03/2007 (623272)
 45 12/10/2007 (623273)
 46 02/04/2008 (674628)
 47 02/12/2008 (674625)
 48 04/09/2008 (674626)
 49 04/09/2008 (674627)
 50 06/13/2008 (692956)
 51 06/23/2008 (692957)
 52 09/01/2008 (714145)

53 10/14/2008 (714146)
 54 10/14/2008 (714147)
 55 10/15/2008 (714148)
 56 11/19/2008 (730162)
 57 12/05/2008 (730163)
 58 01/12/2009 (730164)
 59 03/31/2009 (740455)
 60 04/09/2009 (722985)

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

N/A

Date: 08/31/2004 (359235) CN602296899
 Self YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2004 (359236) CN602296899
 Self 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 (385848) CN602296899
 Self 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 (385849) CN602296899
 Self 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 (385850) CN602296899
 Self 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 (385846) CN602296899
 Self 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 (444586) CN602296899
 Self 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 (423780) CN602296899
Self 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 (444588) CN602296899
Self 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 (444589) CN602296899
Self 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 (423782) CN602296899
Self YES Classification: Moderate

TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 12/31/2005 (475299) CN602296899
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: 06/30/2006 (525143) CN602296899
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: 08/31/2006 (525145) CN602296899
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 (584529) CN602296899
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: 06/30/2008 (714145) CN602296899
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 (714146) CN602296899
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 (714147) CN602296899
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 (714148) CN602296899
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 03/27/2009 (740455) CN602296899
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements; No. 4, Pg. 10 PERMIT
Description: Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

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
TOWN OF BUCKHOLTS
RN103014809

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0534-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 Town of Buckholts ("the Town") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Town appear before the Commission and together stipulate that:

1. The Town owns and operates a wastewater treatment facility located on the north side of the Town, approximately 1,600 feet northeast of U.S. Highway 190 and approximately 1,000 feet east of Farm-to-Market Road 1915 in Milam County, Texas (the "Facility").
2. The Town has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Town agree that the Commission has jurisdiction to enter this Agreed Order, and that the Town is subject to the Commission's jurisdiction.
4. The Town received notice of the violations alleged in Section II ("Allegations") on or about April 14, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Town of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Eight Hundred Forty Dollars (\$3,840) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Town has paid Three Thousand Seventy-Two Dollars (\$3,072) of the administrative penalty and Seven Hundred Sixty-Eight Dollars (\$768) is deferred contingent upon

the Town'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 Town fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Town 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 Town 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 by October 31, 2008, the Town returned to compliance with the permitted effluent limits by adjusting the chlorinator.
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 Town 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 Town is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011875001, Effluent Limitations and Monitoring Requirements No. 2, as documented during a record review conducted on January 7, 2009, and shown in the table below.

<u>EFFLUENT PARAMETER</u>					
<u>Permit Limit</u>					
	Total Chlorine Residual monthly maximum				
Month/Year	4.0 mg/L				
6/30/2008	5				
7/31/2008	5				
8/31/2008	5				
9/30/2008	6.1				

Name
 milligrams per liter

Abbreviation
 mg/L

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Town pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Town'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: Town of Buckholts, Docket No. 2009-0534-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 Town. The Town 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 Town 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 Town, or three days after the date on which the Commission mails notice of the Order to the Town, 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

John Bradley
For the Executive Director

7/13/2009
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.

Hal Senkel
Signature

May 18, 2009
Date

Hal Senkel
Name (Printed or typed)
Authorized Representative of
The Town of Buckholts

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.