

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2008-1819-MWD-E **TCEQ ID:** RN102178654 **CASE NO.:** 36844  
**RESPONDENT NAME:** City of Gustine

<b>ORDER TYPE:</b>		
<input type="checkbox"/> <b>1660 AGREED ORDER</b>	<input checked="" type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Gustine WWTP, located approximately 2 miles east of the intersection of State Highway 36 and Farm-to-Market Road 1476, Gustine, Comanche 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 September 27, 2010. 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. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Susan Harrison, Mayor, City of Gustine, P. O. Box 145, Gustine, Texas 76455  <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 checked="" 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> June 12, 2008 and April 13, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 15, 2008 and June 1, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a records review and an investigation.</p> <p><b>WATER</b></p> <p>1) Failed to provide auxiliary power at the Facility during electrical power failures [30 TEX. ADMIN. CODE §§ 305.125(1) and 317.4(a)(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Operational Requirements No. 4].</p> <p>2) Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2007 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010841001, Sludge Provisions].</p> <p>3) Failed to maintain complete records of monitoring activities and operations and maintenance records [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(11)(B), 305.125(11)(C), 319.7(a), and 319.7(c), and TPDES Permit No. WQ0010841001, Monitoring and Reporting Requirements Nos. 3.b and 3.c, and Other Requirements No. 4].</p> <p>4) Failed to employ an operator with adequate wastewater certification [30 TEX. ADMIN. CODE §§ 305.125(1) and 30.350(d) and TPDES Permit No. WQ0010841001, Other Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$65,133</p> <p><b>Total Deferred:</b> \$65,133  <input type="checkbox"/> Expedited Settlement  <input checked="" type="checkbox"/> Financial Inability to Pay (\$65,133)</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay the administrative penalty.</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site 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>Findings Orders Justification:</b>                      This case involves a violation of a prior Agreed Order. When the Respondent failed to comply with the prior Agreed Order, the Respondent demonstrated an indifference to legal duty.</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. On or about June 23, 2008, hired a wastewater treatment plant operator with a Class "C" level certificate;</p> <p>b. On July 15, 2008, submitted the annual sludge report for the monitoring period ending July 31, 2007; and</p> <p>c. On or about September 30, 2008, installed a backup generator at the Facility.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all records of monitoring activities and operations and maintenance records are maintained on site and that sample collection, records of daily Facility inspections, flow monitoring records, and analytical times for effluent samples are recorded;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.; and</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010841001. The certification shall include 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.</p>

<p>5) Failed to comply with its permitted effluent limits for dissolved oxygen, total suspended solids, ammonia nitrogen and carbonaceous biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), TPDES Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TCEQ Agreed Order Docket No. 2002-1324-MWD-E, Ordering Provision No. 3].</p>		
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Additional ID No(s): TPDES Permit No. WQ0010841001





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	18-Aug-2008	Screening	21-Nov-2008	EPA Due	
	PCW	1-Jul-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Gustfne		
Reg. Ent. Ref. No.	RN102178654		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36844	No. of Violations	4
Docket No.	2008-1819-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Pamela Campbell
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

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

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

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

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

**Screening Date** 21-Nov-2008

**Docket No.** 2008-1819-MWD-E

**PCW**

**Respondent** City of Gustine

*Policy Revision 2 (September 2002)*

**Case ID No.** 36844

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN102178654

**Media [Statute]** Water Quality

**Enf. Coordinator** Pamela Campbell

### 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>	2	10%
	Other written NOVs	39	78%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <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%
<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)** 128%

>> **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 Respondent has two Orders with denial, two NOVs for the same violations and has 39 months of self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 128%

<b>Screening Date</b> 21-Nov-2008	<b>Docket No.</b> 2008-1819-MWD-E	<b>PCW</b>		
<b>Respondent</b> City of Gustine	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36844	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102178654				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Pamela Campbell				
<b>Violation Number</b> 1				
<b>Rule Cite(s)</b>	30.Tex. Admin. Code §§ 305.125(1) and 317.4(a)(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Operational Requirements No. 4.			
<b>Violation Description</b>	Failed to provide auxiliary power at the Facility during electrical power failures, as documented during the June 12, 2008 investigation. At the time of the investigation, the Facility did not have a generator or dual power feed to the Facility.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	25%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	Human health or the environment or will could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of this violation.			
<b>Adjustment</b>		\$7,500		
		\$2,500		
<b>Violation Events</b>				
Number of Violation Events		4	Number of violation days	
		110		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
		<b>Violation Base Penalty</b>	\$10,000	
Four monthly events are recommended from the investigation date (June 12, 2008) to the date compliance was achieved (September 30, 2008).				
<b>Good Faith Efforts to Comply</b>		<b>10.0%</b> Reduction	\$1,000	
		Before NOV	NOV to EDPRP/Settlement	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
N/A	<input type="checkbox"/>	(mark with x)		
<b>Notes</b>	The Respondent installed a back up generator on or about September 30, 2008.			
<b>Violation Subtotal</b>		\$9,000		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$11	<b>Violation Final Penalty Total</b>	
		\$21,800		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		
		\$21,800		

### Economic Benefit Worksheet

**Respondent:** City of Gustine  
**Case ID No.:** 36844  
**Reg. Ent. Reference No.:** RN102178654  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**

**Item Description**    No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$540	12-Jun-2008	30-Sep-2008	0.30	\$1	\$11	\$11
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is the approximate cost to purchase a back up generator for the Facility. The date required is the investigation date and the final date is the date that the Respondent installed a back up generator at the Facility.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$540

**TOTAL**

\$11

<b>Screening Date</b>	21-Nov-2008	<b>Docket No.</b>	2008-1819-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of Gustine	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	38844	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b>	RN102178654			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Pamela Campbell			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.126(17) and TPDES Permit No. WQ0010841001, Sludge Provisions			
<b>Violation Description</b>	Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007. Specifically, the annual sludge report was not submitted until July 15, 2008.			

**Base Penalty**

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

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1%"/>

Matrix Notes

At least 70% of this permit requirement was met.

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

**Violation Base Penalty**

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"/>	<input type="text"/>
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 Gustine  
**Case ID No.** 36844  
**Reg. Ent. Reference No.** RN102178854  
**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
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Sep-2007	15-Jul-2008	0.87	\$0	\$6	\$6
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to submit the annual sludge report. The date required is the date that the annual sludge report was due and the final date is the date the sludge report was submitted to the TCEQ.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

<b>Screening Date</b> 21-Nov-2008	<b>Docket No.</b> 2008-1819-MWD-E	<b>PCW</b>	
<b>Respondent</b> City of Gustine	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36844	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102178854			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Pamela Campbell			
<b>Violation Number</b> <input type="text" value="3"/>			
<b>Violation Description</b>	<p>30 Tex. Admin. Code §§ 305.125(1), 305.125(11)(B), 305.125(11)(C), 319.7(a), and 319.7(c), and TPDES Permit No. WQ0010841001, Monitoring and Reporting Requirements Nos. 3.b and 3.c, and Other Requirements No. 4</p> <p>Failed to maintain complete records of monitoring activities and operations and maintenance records. Specifically, the Respondent did not have three years worth of discharge monitoring reports or five years worth of sludge reports; records of daily Facility inspections; flow monitoring records; records concerning measurements and analyses performed and calibration and maintenance of flow measurement devices and other instrumentation at the time of the investigation. Also, the Respondent failed to record the pH and dissolved oxygen collection and analytical times.</p>		
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Release</b>	<b>Harm</b>	
		Major      Moderate      Minor	
	Actual	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
	Potential	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major      Moderate      Minor	
	<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	<input type="text" value="At least 70% of this rule requirement was not met."/>		
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>	
			<input type="text" value="\$1,000"/>
<b>Violation Events</b>			
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>
		<input type="text" value="162"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="checkbox"/>	
<input type="text" value="One single event is recommended."/>			
<b>Good Faith Efforts to Comply</b>			<b>0.0% Reduction</b> <input type="text" value="\$0"/>
	Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer
	Ordinary	<input type="text"/>	<input type="text"/>
	N/A	<input checked="" type="checkbox"/> (mark with x)	<input type="text"/>
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
			<b>Violation Subtotal</b> <input type="text" value="\$1,000"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
	<b>Estimated EB Amount</b>	<input type="text" value="\$109"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,260"/>
			<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,260"/>

### Economic Benefit Worksheet

**Respondent:** City of Gustine  
**Case ID No.:** 36844  
**Req. Ent. Reference No.:** RN102178654  
**Media:** Water Quality  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	12-Jun-2008	31-Dec-2009	1.55	\$5	\$104	\$109
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to update the Facility's operational guidance and conduct employee training to ensure that monitoring activities and operations and maintenance records are maintained on-site and that sample collection and analytical times, records of daily Facility inspections, and flow monitoring records are recorded. The date required is the investigation date and the final date is the anticipated 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

\$1,000	<b>TOTAL</b>	\$109
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<b>Screening Date:</b> 21-Nov-2008	<b>Docket No.:</b> 2008-1819-MWD-E	<b>PCW</b>
<b>Respondent:</b> City of Gustine	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.:</b> 36844	<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.:</b> RN102178654		
<b>Media [Statute]:</b> Water Quality		
<b>Enf. Coordinator:</b> Pamela Campbell		
<b>Violation Number:</b> 4		
<b>Rule Cite(s):</b>	30 Tex. Admin. Code §§ 305.125(1) and 30.350(d) and TPDES Permit No. WQ0010841001, Other Requirements No. 1	
<b>Violation Description:</b>	Failed to employ an operator with adequate wastewater certification. Specifically, the Facility was not being operated by an operator with at least a Class "C" level certification.	
<b>Base Penalty:</b>	\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
OR	Harm	
	Release	Major    Moderate    Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>	25%
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification    Major    Moderate    Minor	
	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>	0%
<b>Matrix Notes:</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or the environment as a result of this violation.	
<b>Adjustment:</b>	\$7,500	
<b>\$2,500</b>		
<b>Violation Events</b>		
Number of Violation Events	1	Number of violation days
	11	
mark only one with an x	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
	<b>Violation Base Penalty:</b>	\$2,500
One monthly event is recommended from the investigation date (June 12, 2008) to the date compliance was achieved (June 23, 2008).		
<b>Good Faith Efforts to Comply</b>		
	25.0% Reduction	\$625
	Before NOV    NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	(mark with x)	
<b>Notes:</b>	The Respondent hired a Class "C" level operator on or about June 23, 2008.	
<b>Violation Subtotal:</b>	\$1,875	
<b>Economic Benefit (EB) for this violation</b>		
<b>Estimated EB Amount:</b>	\$570	
<b>Statutory Limit Test</b>		
<b>Violation Final Penalty Total:</b>	\$5,075	
<b>This violation Final Assessed Penalty (adjusted for limits):</b>	\$5,075	

## Economic Benefit Worksheet

**Respondent:** City of Gustine  
**Case ID No.:** 38844  
**Reg. Ent. Reference No.:** RN102178654  
**Media:** Water Quality  
**Violation No.:** 4

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel	\$18,000	12-Jun-2008	23-Jun-2008	0.03	\$27	\$542	\$570
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

This is the yearly salary for the Respondent's certified wastewater treatment plant operator. The date required is the investigation date and the final date is the date that a properly certified operator was hired.

Approx. Cost of Compliance	\$18,000	<b>TOTAL</b>	\$570
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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	1-Jun-2009	<b>Screening</b>	5-Jun-2009	<b>EPA Due</b>	
	<b>PCW</b>	1-Jul-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Gustine
<b>Reg. Ent. Ref. No.</b>	RN102178654
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36844	<b>No. of Violations</b>	1
<b>Docket No.</b>	2008-1819-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Pamela Campbell
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

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

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

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

**Notes**

**Culpability**   Enhancement **Subtotal 4**

**Notes**

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

**PAYABLE PENALTY**

**Screening Date** 5-Jun-2009

**Docket No.** 2008-1819-MWD-E

**PCW**

**Respondent** City of Gustine

*Policy Revision 2 (September 2002)*

**Case ID No.** 36844

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN102178654

**Media [Statute]** Water Quality

**Enf. Coordinator** Pamela Campbell

**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>	41	205%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <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%
<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)** 245%

>> **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 Respondent has two Orders with denial, two NOVs for the same violations and has 39 months of self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 245%

<b>Screening Date</b> 5-Jun-2009	<b>Docket No.</b> 2008-1819-MWD-E	<b>PCW</b>																
<b>Respondent</b> City of Gustine		Policy Revision 2 (September 2002)																
<b>Case ID No.</b> 36844		PCW Revision October 30, 2009																
<b>Reg. Ent. Reference No.</b> RN102178654																		
<b>Media [Statute]</b> Water Quality																		
<b>Enf. Coordinator</b> Pamela Campbell																		
<b>Violation Number</b> <input type="text" value="1"/>																		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), TPDES Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TCEQ Agreed Order Docket No. 2002-1324-MWD-E, Ordering Provision No. 3																	
<b>Violation Description</b>	Failed to comply with permitted effluent limits as documented during a record review conducted on April 13, 2009 and shown on the attached table.																	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>																
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																		
<b>OR</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>		Harm			Release	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
	Harm																	
Release	Major	Moderate	Minor															
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>															
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>															
<b>&gt;&gt; Programmatic Matrix</b>																		
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>		Major	Moderate	Minor	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>								
	Major	Moderate	Minor															
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>															
<b>Matrix Notes</b>	A simplified model was utilized to evaluate the values of ammonia nitrogen ("NH <sub>3</sub> -N"), carbonaceous biochemical oxygen demand ("CBOD <sub>5</sub> "), and flow to determine whether the discharge amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and dissolved oxygen were also evaluated. The amounts discharged at the time of the violation were insignificant and did not exceed levels protective of human health or the environment.																	
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>																
		<input type="text" value="\$1,000"/>																
<b>Violation Events</b>																		
	<b>Number of Violation Events</b> <input type="text" value="13"/>	<input type="text" value="1120"/> <b>Number of violation days</b>																
mark only one with an x	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">weekly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	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"/>	<b>Violation Base Penalty</b> <input type="text" value="\$13,000"/>		
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"/>																	
	Thirteen quarterly events are recommended from the effective date of the Agreed Order (May 12, 2006) to the screening date (June 5, 2009).																	
<b>Good Faith Efforts to Comply</b>																		
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">0.0% Reduction</td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV      NOV to EDCRP/Settlement</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;"><input checked="" type="checkbox"/> (mark with x)</td> </tr> </table>		0.0% Reduction		Before NOV      NOV to EDCRP/Settlement	Extraordinary	<input type="text"/>	Ordinary	<input type="text"/>	N/A	<input checked="" type="checkbox"/> (mark with x)	<input type="text" value="\$0"/>						
	0.0% Reduction																	
	Before NOV      NOV to EDCRP/Settlement																	
Extraordinary	<input type="text"/>																	
Ordinary	<input type="text"/>																	
N/A	<input checked="" type="checkbox"/> (mark with x)																	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																	
	<b>Violation Subtotal</b>	<input type="text" value="\$13,000"/>																
<b>Economic Benefit (EB) for this violation</b>																		
	<b>Estimated EB Amount</b>	<input type="text" value="\$1,331"/>																
<b>Statutory Limit Test</b>																		
	<b>Violation Final Penalty Total</b>	<input type="text" value="\$35,750"/>																
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$35,750"/>																

## Economic Benefit Worksheet

**Respondent** City of Gustine  
**Case ID No.** 36844  
**Reg. Ent. Reference No.** RN102178854  
**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)	\$5,000	12-May-2008	28-Feb-2010	3.80	\$63	\$1,268	\$1,331
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to evaluate the Facility to determine the cause of the effluent violations and complete corrective actions. The date required is the effective date of the Agreed Order and the final date is the anticipated 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

\$5,000

TOTAL

\$1,331

## EFFLUENT VIOLATION TABLE

City of Gustine  
 TPDES Permit No. WQ0010841001  
 Docket No. 2008-1819-MWD-E

Permitted Effluent Limits	Monitoring Period End Date																			
	Jun-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Sep-07	Oct-07	Nov-07	Dec-07	Jan-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Dec-08	Jan-09	
DO monthly min. 4 mg/L	c	c	c	c	c	c	c	3.5	c	c	c	c	c	c	c	c	c	c	c	c
TSS daily avg. conc. 15 mg/L	25	c	c	24.6	28	52.25	c	31.4	c	c	c	49.5	c	23.5	c	c	c	c	c	c
TSS max. single grab 60 mg/L	c	c	c	c	c	112	98.12	c	c	c	c	89	c	c	c	c	c	c	c	c
NH <sub>3</sub> -N daily avg. loading 2.1 lbs/day	c	c	c	c	c	2.79	c	3.17	c	3.02	c	3.09	c	c	c	3.28	c	c	c	c
NH <sub>3</sub> -N daily avg. conc. 3 mg/L	3.62	8.14	4.91	10.07	14.10	14.6	c	13.45	4.87	c	4.04	27.25	12.28	17.03	6	17.06	11.9	6.9	10.77	
NH <sub>3</sub> -N max. single grab 15 mg/L	c	20.1	c	17.1	21	30.2	c	22.3	c	c	17.4	37.2	21	27.1	c	19.2	16.8	c	18.70	
CBOD <sub>5</sub> daily avg. conc. 10 mg/L	c	c	c	11	13.75	15.25	c	18.8	c	11.75	c	27.25	c	17.03	c	c	c	c	c	c
CBOD <sub>5</sub> max. single grab 35 mg/L	c	c	c	c	c	c	c	c	c	c	c	37.2	c	c	c	c	c	c	c	c

avg. = average

c = compliant

CBOD<sub>5</sub> = carbonaceous biochemical oxygen demand

conc. = concentration

DO = dissolved oxygen

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per liter

NH<sub>3</sub>-N = ammonia nitrogen

TSS = total suspended solids



## Compliance History Report

Customer/Respondent/Owner-Operator:	CN600640189	City of Gustine	Classification: AVERAGE	Rating: 16.46
Regulated Entity:	RN102178654	CITY OF GUSTINE WWTP	Classification: AVERAGE	Site Rating: 16.46
ID Number(s):	WASTEWATER	PERMIT	WQ0010841001	
	WASTEWATER	PERMIT	TPDES0117722	
	WASTEWATER	PERMIT	TX0117722	
	WASTEWATER LICENSING	LICENSE	WQ0010841001	
Location:	LOCATED APPROXIMATELY 2 MILES EAST OF THE INTERSECTION OF STATE HIGHWAY 36 & FM 1476 IN COMANCHE COUNTY			Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	June 10, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 10, 2004 to June 10, 2009			
TCEQ Staff Member to Contact for Additional Information:	Regarding this Compliance History			
Name:	Pamela Campbell	Phone:	239 - 4493	

### Site Compliance History Components

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

#### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 05/12/2006	ADMINORDER 2002-1324-MWD-E
Classification: Moderate	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121
Rqmt Prov:	Not specified PERMIT
Description:	Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
Classification: Moderate	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121
Rqmt Prov:	Effluent Limits PERMIT
Description:	Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 07/03/2008	ADMINORDER 2005-1455-MWD-E
Classification: Minor	
Citation:	30 TAC Chapter 317 317.4(a)(8)
Description:	Failure to provide annual certification on the backflow prevention assembly.
Classification: Minor	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov:	Operational Requirements No. 1 PERMIT
Description:	Failed to ensure that the wastewater treatment facility and its systems of collection, treatment, and disposal are properly operated and maintained.
Classification: Moderate	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(9)(A)
Rqmt Prov:	Mon. & Rep. Req. No. 7(c) PERMIT
Description:	Failure to submit noncompliance notifications for effluent violations which deviate from the permitted effluent limit by more than 40%.

- 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 07/19/2004 (366432)  
 2 08/09/2004 (366434)  
 3 08/19/2004 (366433)  
 4 09/13/2004 (366435)  
 5 10/01/2004 (366436)  
 6 12/27/2004 (366437)  
 7 02/17/2005 (427269)  
 8 04/07/2005 (427264)  
 9 04/07/2005 (427265)  
 10 06/06/2005 (427266)  
 11 06/06/2005 (427267)  
 12 06/27/2005 (427268)  
 13 07/25/2005 (394345)  
 14 09/06/2005 (447339)  
 15 09/06/2005 (447340)  
 16 09/06/2005 (447341)  
 17 09/06/2005 (447342)

18 10/09/2005 (491988)  
 19 12/20/2005 (491989)  
 20 01/13/2006 (491990)  
 21 02/08/2006 (491991)  
 22 03/15/2006 (491986)  
 23 03/27/2006 (491987)  
 24 05/02/2006 (506042)  
 25 06/02/2006 (506043)  
 26 08/16/2006 (528269)  
 27 09/28/2006 (528270)  
 28 09/28/2006 (528271)  
 29 11/10/2006 (551716)  
 30 02/09/2007 (588851)  
 31 02/09/2007 (588852)  
 32 02/09/2007 (588853)  
 33 06/07/2007 (662860)  
 34 02/29/2008 (636702)  
 35 04/04/2008 (640519)  
 36 04/29/2008 (654022)  
 37 07/15/2008 (732722)  
 38 07/15/2008 (732723)  
 39 07/15/2008 (732724)  
 40 07/15/2008 (732725)  
 41 07/15/2008 (732726)  
 42 08/15/2008 (717358)  
 43 08/18/2008 (688618)  
 44 09/12/2008 (717359)  
 45 10/30/2008 (732727)  
 46 11/07/2008 (732728)  
 47 12/12/2008 (732729)  
 48 12/30/2008 (721348)  
 49 06/01/2009 (742498)

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

Date: 06/30/2004 (366434)		
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 (368435)		
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 (447342)		
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 (366437)		
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 (427269)		
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 (427264)		
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 (427265)		
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 (427266)		
Self Report? YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	

Description: TWC Chapter 26 26.121(a)  
 Failure to meet the limit for one or more permit parameter

Date: 04/30/2005 (427267)  
 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 (427268)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (447339)  
 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 (447340)  
 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 (491988)  
 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 (491989)  
 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 (491990)  
 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: 12/31/2005 (491991)  
 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: 01/31/2006 (491986)  
 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: 02/28/2006 (491987)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2006 (506042)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (506043)  
 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 (528269)  
 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 (528271)  
 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 (551716)  
 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 (588851)  
 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: 11/30/2006 (588852)  
 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: 12/31/2006 (588853)  
 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: 06/07/2007 (562860)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 317 317.4(a)(8)  
 30 TAC Chapter 317 317.7(i)  
 Description: Failure to provide a backflow prevention assembly for the potable water line.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 317 317.4(a)(5)  
 WQ0010841001 PERMIT  
 Description: Failure to provide auxiliary power at the Facility during electrical power failures.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Sludge Provisions, F. Reporting Req. PERMIT  
 Description: Failure to submit the annual sludge report for the monitoring periods ending July 31, 2006 and July 31, 2007.

Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010841001 PERMIT  
 Description: Failure to comply with permit effluent limits.

Self Report? NO Classification: Major  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010841001 PERMIT  
 Description: Failure to meet permitted effluent limits.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 30 TAC Chapter 319, SubChapter A 319.7(c)  
 WQ0010841001 PERMIT  
 Description: Failure to maintain complete records of monitoring activities.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)  
 30 TAC Chapter 319, SubChapter A 319.7(a)  
 WQ0010841001 PERMIT  
 Description: Failure to record the pH and Dissolved Oxygen (DO) collection and analytical times.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 WQ0010841001 PERMIT  
 Description: Failure to provide and maintain records at the Facility.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010841001 PERMIT  
 Description: Failure to maintain accurate flow records.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010841001 PERMIT

Description: Failure to submit noncompliance notifications for effluent violations which deviate from the permitted effluent limit by more than 40%.

Date: 09/30/2007  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2007  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2007  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/26/2008 (636702)  
Self Report? NO  
Citation: 2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B)  
Ordering Provision No. 3 ORDER  
Classification: Major  
Description: Investigation to document noncompliance of Agreed Commission Order Docket No. 2002-1324-MWD-E.

Self Report? NO  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
TPDES Permit No. WQ0010841-001 PERMIT  
Classification: Major  
Description: Failure to comply with permitted limits as documented by a TCEQ record review of self-reported data.

Self Report? NO  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
TPDES Permit WQ0010841-001 PERMIT  
Classification: Moderate  
Description: Failure to submit (effluent/sludge) monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

Date: 03/31/2008  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2008  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2008  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2008 (717358)  
Self Report? YES  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Classification: Moderate  
Description: Failure to meet the limit for one or more permit parameter



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF GUSTINE  
RN102178654

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-1819-MWD-E**

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 Gustine (“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 presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The City owns and operates a wastewater treatment facility located approximately two miles east of the intersection of State Highway 36 and Farm-to-Market Road 1476 in Comanche 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. During an investigation on June 12, 2008, TCEQ staff documented that the City did not have auxiliary power at the Facility.
4. During an investigation on June 12, 2008, TCEQ staff documented that the City did not submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007.
5. During an investigation on June 12, 2008, TCEQ staff documented that the City did not have three years worth of discharge monitoring reports or five years worth of sludge reports; records of daily Facility inspections; flow monitoring records; records concerning measurements and analyses performed and calibration and maintenance of flow measurement devices and other instrumentation at the time of the investigation. Also, the City did not record the pH and dissolved oxygen collection and analytical times.
6. During an investigation on June 12, 2008, TCEQ staff documented that the City did not employ a TCEQ Class "C" level certified wastewater treatment plant operator.
7. During a record review conducted on April 13, 2009, TCEQ staff documented that the City did not comply with its permitted effluent limits, as shown in the table below:

EFFLUENT VIOLATION TABLE																			
City of Gustine																			
TPDES Permit No. WQ0010841001																			
Docket No. 2008-1819-MWD-E																			
Permitted Effluent Limits	Monitoring Period End Date																		
	Jun-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Sep-07	Oct-07	Nov-07	Dec-07	Jan-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Dec-08	Jan-09
DO monthly min. 4 mg/L	c	c	c	c	c	c	c	3.5	c	c	c	c	c	c	c	c	c	c	c
TSS daily avg. conc. 15 mg/L	25	c	c	24.6	28	52.25	c	31.4	c	c	c	49.5	c	23.5	c	c	c	c	c
TSS max. single grab 60 mg/L	c	c	c	c	c	112	98.12	c	c	c	c	89	c	c	c	c	c	c	c
NH <sub>3</sub> -N daily avg. loading 2.1 lbs/day	c	c	c	c	c	2.79	c	3.17	c	3.02	c	3.09	c	c	c	3.28	c	c	c
NH <sub>3</sub> -N daily avg. conc. 3 mg/L	3.62	8.14	4.91	10.07	14.10	14.6	c	13.45	4.87	c	4.04	27.25	12.28	17.03	6	17.06	11.9	6.9	10.77
NH <sub>3</sub> -N max. single grab 15 mg/L	c	20.1	c	17.1	21	30.2	c	22.3	c	c	17.4	37.2	21	27.1	c	19.2	16.8	c	18.70
CBODs daily avg. conc. 10 mg/L	c	c	c	11	13.75	15.25	c	18.8	c	11.75	c	27.25	c	17.03	c	c	c	c	c
CBODs max. single grab 35 mg/L	c	c	c	c	c	c	c	c	c	c	c	37.2	c	c	c	c	c	c	c

avg. = average  
c = compliant  
CBODs = carbonaceous biochemical oxygen demand  
conc. = concentration  
DO = dissolved oxygen  
lbs/day = pounds per day  
mg/L = milligrams per liter  
NH<sub>3</sub>-N = ammonia nitrogen  
TSS = total suspended solids

8. The City received notice of the violations on August 20, 2008 and June 3, 2009.
9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
  - a. On or about June 23, 2008, hired a wastewater treatment plant operator with a Class "C" level certificate;
  - b. On July 15, 2008, submitted the annual sludge report for the monitoring period ending July 31, 2007; and
  - c. On or about September 30, 2008, installed a back up generator at the Facility.

## II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to provide auxiliary power at the Facility during electrical power failures, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 317.4(a)(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Operational Requirements No. 4.
3. As evidenced by Findings of Fact No. 4, the City failed to timely submit the annual sludge report for the monitoring period ending July 31, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010841001, Sludge Provisions.
4. As evidenced by Findings of Fact No. 5, the City failed to maintain complete records of monitoring activities and operations and maintenance records, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(11)(B), 305.125(11)(C), 319.7(a), and 319.7(c), and TPDES Permit No. WQ0010841001, Monitoring and Reporting Requirements Nos. 3.b and 3.c, and Other Requirements No. 4.
5. As evidenced by Findings of Fact No. 6, the City failed to employ an operator with adequate wastewater certification, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 30.350(d) and TPDES Permit No. WQ0010841001, Other Requirements No. 1.
6. As evidenced by Findings of Fact No. 7, the City failed to comply with its permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), TPDES Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TCEQ Agreed Order Docket No. 2002-1324-MWD-E, Ordering Provision No. 3.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

8. An administrative penalty in the amount of Sixty-Five Thousand One Hundred Thirty-Three Dollars (\$65,133) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the City and determined that the City is unable to pay the administrative penalty. Therefore, Sixty-Five Thousand One Hundred Thirty-Three Dollars (\$65,133) of the penalty 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.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS  
that:

1. The City is assessed an administrative penalty in the amount of Sixty-Five Thousand One Hundred Thirty-Three Dollars (\$65,133) as set forth in Section II, Paragraph 8 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Gusting, Docket No. 2008-1819-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 City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all records of monitoring activities and operations and maintenance records are maintained on site and that sample collection, records of daily Facility inspections, flow monitoring records, and analytical times for effluent samples are recorded, in accordance with TPDES Permit No. WQ0010841001, Monitoring and Reporting Requirements No. 3 and Other Requirements No. 4;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, as described in Ordering Provision No. 2. d below;

- c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010841001. The certification shall include 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; and
- d. The written certifications required by Ordering Provision Nos. 2.b and 2.c shall 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 fines 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  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

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

\_\_\_\_\_  
Date 10/7/2010

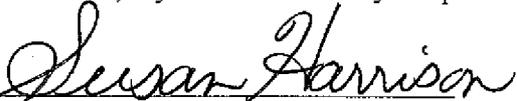
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Gustine. I am authorized to agree to the attached Agreed Order on behalf of the City of Gustine, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Gustine waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

\_\_\_\_\_  
Date 7-14-10

Susan Harrison  
Name (Printed or typed)  
Authorized Representative of  
City of Gustine

\_\_\_\_\_  
Title Mayor

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph I of this Agreed Order.

