

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-0776-MWD-E **TCEQ ID:** RN102517372 **CASE NO.:** 39683

**RESPONDENT NAME:** William Emmett Hartzog, Jr.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Lone Willow Mobile Home Park - West, 345 Gulf Bank Road, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. William Emmett Hartzog, Jr., Owner, 6719 Willage Bridge Drive, Humble, Texas 77346  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 26, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 14, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failed to comply with permitted effluent limits for ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0012917001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$1,150</p> <p><b>Total Deferred:</b> \$230  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$920</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that in November 2009, the Respondent returned to compliance with all permitted effluent limits by adjusting the air pump in the aeration tank.</p>

Additional ID No(s): WQ0012917001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	11-May-2010	Screening	12-May-2010	EPA Due	
	PCW	13-May-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	William Emmett Hartzog, Jr.
Reg. Ent. Ref. No.	RN102517372
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39683	No. of Violations	1
Docket No.	2010-0776-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 1
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: Enhancement recommended due to seven self-reported monthly effluent violations and one NOV for violations similar to those cited in this order.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts	\$1
Approx. Cost of Compliance	\$25

\*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment **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: Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 12-May-2010

Docket No. 2010-0776-MWD-E

PCW

Respondent William Emmett Hartzog, Jr.

Policy Revision 2 (September 2002)

Case ID No. 39683

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102517372

Media [Statute] Water Quality

Enf. Coordinator: Lanae Foard

### 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)	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (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) 40%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended due to seven self-reported monthly effluent violations and one NOV for violations similar to those cited in this order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 12-May-2010

Docket No. 2010-0776-MWD-E

PCW

Respondent William Emmett Harzog, Jr.

Policy Revision 2 (September 2002)

Case ID No. 39683

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102517372

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0012917001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on March 26, 2010 and as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	10%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 91 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$250

Before NOV NOV to EDFRP/Settlement

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent returned to compliance in November 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

# Economic Benefit Worksheet

**Respondent** William Emmett Hartzog, Jr.  
**Case ID No.** 39683  
**Reg. Ent. Reference No.** RN102517372  
**Media** Water Quality  
**Violation No.** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$25	30-Apr-2009	30-Nov-2009	0.59	\$1	n/a	\$1

**Notes for DELAYED costs**  
 Estimated cost to adjust the air pump in the aeration tank to return to compliance with permitted effluent limits.  
 Date required is the first month of noncompliance. Final date is the date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$25	<b>TOTAL</b>	\$1
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**Effluent Violation Table**  
**William Emmett Hartzog, Jr.**  
**TPDES Permit No. WQ0012917001**  
**Docket No. 2010-0776-MWD-E**

Permitted Effluent Limits	Monitoring Period End Date		
	4/30/2009	5/31/2009	6/30/2009
<b>NH<sub>3</sub>-N daily avg. conc.</b> Limit = 3 mg/L	<b>&lt; 6.21</b>	<b>&lt; 7.96</b>	<b>&lt; 7.88</b>
<b>NH<sub>3</sub>-N single grab</b> Limit = 15 mg/L	<b>21.1</b>	<b>c</b>	<b>c</b>

NH<sub>3</sub>-N = ammonia nitrogen  
 avg. = average  
 mg/L = milligrams per liter

conc. = concentration  
 c = compliant



# Compliance History Report

Customer/Respondent/Owner-Operator: CN601289226 WILLIAM EMMETT HARTZOG, JR. Classification: AVERAGE Rating: 2.37  
 Regulated Entity: RN102517372 LONE WILLOW MHP-WEST Classification: AVERAGE Site Rating: 1.00  
 ID Number(s): WASTEWATER EPA ID TPDES0095516  
 WASTEWATER PERMIT WQ0012917001  
 WASTEWATER EPA ID TX0095516  
 PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1010663  
 WATER LICENSING LICENSE 1010663  
 Location: 345 Gulf Bank Road In Harris County, Texas  
 TCEQ Region: REGION 12 - HOUSTON  
 Date Compliance History Prepared: May 13, 2010  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: May 13, 2005 to May 13, 2010

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

Name: Lanae Foard Phone: 512-239-2554

## 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: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/25/2005	(430496)
2	06/20/2005	(430497)
3	07/14/2005	(446058)
4	08/05/2005	(446059)
5	09/12/2005	(446060)
6	10/07/2005	(478216)
7	10/24/2005	(478217)
8	12/07/2005	(478218)
9	12/27/2005	(478219)
10	01/26/2006	(478220)
11	03/08/2006	(478215)
12	04/10/2006	(504499)
13	04/24/2006	(458516)
14	05/22/2006	(504500)
15	06/12/2006	(504501)
16	07/10/2006	(526618)
17	08/24/2006	(526619)
18	09/12/2006	(526620)
19	10/23/2006	(626785)
20	11/08/2006	(626787)
21	12/01/2006	(626789)
22	12/29/2006	(626791)
23	02/12/2007	(626792)
24	03/05/2007	(626776)
25	04/09/2007	(626779)
26	05/07/2007	(626780)
27	05/30/2007	(512359)
28	06/18/2007	(626781)

29 06/25/2007 (626782)  
 30 08/01/2007 (626783)  
 31 09/20/2007 (626784)  
 32 10/08/2007 (626786)  
 33 11/12/2007 (626788)  
 34 12/05/2007 (626790)  
 35 01/10/2008 (675999)  
 36 01/22/2008 (694374)  
 37 02/25/2008 (675997)  
 38 03/19/2008 (675998)  
 39 05/01/2008 (694372)  
 40 05/30/2008 (694373)  
 41 06/30/2008 (715770)  
 42 07/28/2008 (715771)  
 43 07/31/2008 (731447)  
 44 08/20/2008 (715772)  
 45 09/26/2008 (715773)  
 46 11/10/2008 (731448)  
 47 12/01/2008 (731449)  
 48 01/02/2009 (754770)  
 49 01/29/2009 (754771)  
 50 03/04/2009 (771979)  
 51 04/09/2009 (771980)  
 52 05/04/2009 (771981)  
 53 05/14/2009 (737891)  
 54 05/29/2009 (771982)  
 55 12/03/2009 (777654)  
 56 12/03/2009 (780804)

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

Date: 04/30/2009 CN601289226  
 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: 05/14/2009 (737891) CN601289226  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)(B)  
 Reporting requirements, p 22 provision G PERMIT  
 RKIR, pg 19 provision F PERMIT  
 Description: Failure to submit the sludge discharge monitoring reports for fiscal years 2007 and 2008.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 EL&MR, pg 2, number 1 PERMIT  
 Description: Failure to maintain compliance with permitted daily maximum effluent limits for Ammonia Nitrogen (NH3-N).  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)  
 Description: Failure to properly install and maintain the flow measuring device.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Description: Failure to maintain the required records.  
 Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 M&RR pg4 number 1 PERMIT  
 Description: Failure to submit discharge monitoring reports.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Description: Failure to perform the required quality assurance/quality control (QA/QC) procedures for total chlorine residual.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
 Description: Failure to perform the manganese oxide correction analysis.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
 Description: Failure to document both the time of sample collection and sample analysis for total chlorine residual.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)

M&RR pg 4 number 1 PERMIT

Description: Failure to submit accurate data.

Self Report? NO Classification: Moderate

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

Description: Failure to provide a duplicate pump in the off site lift station. In addition, it was noted that there was no alarm system on the off site lift station.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(6)

Description: Failure to provide a backflow prevention device at the process wastewater treatment plant.

Date: 05/31/2009 CN601289226

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 06/30/2009 CN601289226

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: 07/31/2009 CN601289226

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: 08/31/2009 CN601289226

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: 09/30/2009 CN601289226

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: 10/31/2009 CN601289226

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WILLIAM EMMETT HARTZOG, JR.  
RN102517372**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0776-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 William Emmett Hartzog, Jr. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility at 345 Gulf Bank Road in Harris County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 19, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand One Hundred Fifty Dollars (\$1,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Hundred Twenty Dollars (\$920) of the administrative penalty and Two Hundred Thirty Dollars (\$230) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 Respondent 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 in November 2009, the Respondent returned to compliance with all permitted effluent limits by adjusting the air pump in the aeration tank.
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 Respondent 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 Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0012917001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 26, 2010, and as shown in the following effluent violation table:

<b>Effluent Violation Table</b>			
<b>Permitted Effluent Limits</b>	<b>Monitoring Period End Date</b>		
	<b>4/30/2009</b>	<b>5/31/2009</b>	<b>6/30/2009</b>
<b>NH<sub>3</sub>-N daily avg. conc. Limit = 3 mg/L</b>	<b>&lt; 6.21</b>	<b>&lt; 7.96</b>	<b>&lt; 7.88</b>
<b>NH<sub>3</sub>-N single grab Limit = 15 mg/L</b>	<b>21.1</b>	<b>c</b>	<b>c</b>

NH<sub>3</sub>-N = ammonia nitrogen  
 avg. = average  
 mg/L = milligrams per liter

conc. = concentration  
 c = compliant

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: William Emmett Hartzog, Jr., Docket No. 2010-0776-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 Respondent. The Respondent 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 Respondent 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 Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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 Szallier  
\_\_\_\_\_  
For the Executive Director

9/21/2010  
\_\_\_\_\_  
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.

WEH  
\_\_\_\_\_  
Signature

7-13-10  
\_\_\_\_\_  
Date

WILLIAM E HARTZOG JR  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
William Emmett Hartzog, Jr.

OWNER  
\_\_\_\_\_  
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.