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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0999-MWD-E **TCEQ ID:** RN102077278 **CASE NO.:** 39895
RESPONDENT NAME: City of Moody

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Moody wastewater treatment facility, 501 5th Street, approximately 1,500 feet northwest of the intersection of State Highway 317 and Farm-to-Market Road 107, Moody, McLennan County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 8, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Mike Alton, Mayor, City of Moody, P.O. Box 68, Moody, Texas 76557 Mr. Michael Aycock, Director of Public Works, City of Moody, P.O. Box 68, Moody, Texas 76557 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 19, 2010</p> <p>Date of NOV/NOE Relating to this Case: June 2, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limits for total suspended solids and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$4,650</p> <p>Total Deferred: \$930 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,720</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by April 30, 2010, the Respondent repaired and replaced the problem areas of the wastewater collection system in order to reduce inflow and infiltration, which was overloading the wastewater treatment plant, keeping it from running efficiently.</p> <p>Ordering Provisions:</p> <p>Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010225001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0010225001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Jun-2010	PCW	15-Jun-2010	Screening	14-Jun-2010	EPA Due	
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RESPONDENT/FACILITY INFORMATION	
Respondent	City of Moody
Reg. Ent. Ref. No.	RN102077278
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39895	No. of Violations	1
Docket No.	2010-0999-MWD-E	Order Type	1880
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jeremy Escobar
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	55.0% Enhancement	Subtotals 2, 3, & 7	\$1,650
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Notes The penalty is enhanced due to eleven months of self-reported effluent violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1,833
 Approx. Cost of Compliance \$20,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,650
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$4,650
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,650
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DEFERRAL	20.0% Reduction	Adjustment	-\$930
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,720
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Screening Date 14-Jun-2010

Docket No. 2010-0999-MWD-E

PCW

Respondent City of Moody

Policy Revision 2 (September 2002)

Case ID No. 39895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102077278

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

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)	11	55%
	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) 55%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced due to eleven months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date: 14-Jun-2010

Docket No.: 2010-0999-MWD-E

PCW

Respondent: City of Moody

Policy Revision 2 (September 2002)

Case ID No.: 39895

PCW Revision October 30, 2009

Reg. Ent. Reference No.: RN102077278

Media [Statute]: Water Quality

Enf. Coordinator: Jeremy Escobar

Violation Number: 1

Rule Cite(s): Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description: Failed to comply with permitted effluent limits, as documented in a record review conducted on May 19, 2010, and depicted in the table attached.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent: 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 3

150 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal: \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$1,833

Violation Final Penalty Total: \$4,650

This violation Final Assessed Penalty (adjusted for limits): \$4,650

Economic Benefit Worksheet

Respondent: City of Moody
Case ID No.: 39895
Reg. Ent. Reference No.: RN102077278
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20,000	30-Apr-2009	28-Feb-2011	1.83	\$1,833	n/a	\$1,833

Notes for DELAYED costs

Cost provided by the Respondent for the evaluation of the causes of the effluent violations and to repair and replace the problem areas of the wastewater collection system in order to reduce inflow and infiltration, which was overloading the wastewater treatment plant, keeping it from running efficiently. Date required is the first date of non-compliance. The final date is the projected 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

\$20,000

TOTAL

\$1,833

Effluent Violation Table

City of Moody
Docket No. 2010-0999-MWD-E
Case No. 39895

Permitted Effluent Limits	Flow Daily Average Max .2 MGD	TSS Daily Average 20 mg/ L
April 30, 2009	C	25.2
November 30, 2009	C	24.75
December 31, 2009	C	45.6
January 31, 2010	C	32.5
February 28, 2010	.292222	25.5

TSS = Total Suspended Solids	mg/L = milligrams per liter	MGD = million gallons per day
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600754592	City of Moody	Classification: AVERAGE	Rating: 2.48
Regulated Entity:	RN102077278	CITY OF MOODY	Classification: AVERAGE	Site Rating: 0.38
ID Number(s):	WASTEWATER	PERMIT	WQ0010225001	
	WASTEWATER	PERMIT	TPDES0024086	
	WASTEWATER	PERMIT	TX0024066	
	WASTEWATER LICENSING	LICENSE	WQ0010225001	

Location: 501 5th Street, approximately 1,500 feet northwest of the Intersection of State Highway 317 and Farm-to-Market Road 107, City of Moody, McLennan County Texas

TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: June 16, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: June 14, 2005 to June 14, 2010
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Jeremy Escobar Phone: 825-3422

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	06/22/2005	(420715)
2	07/25/2005	(441711)
3	09/01/2005	(441712)
4	09/16/2005	(441713)
5	10/19/2005	(470205)
6	11/09/2005	(470206)
7	12/16/2005	(470207)
8	01/24/2006	(470208)
9	02/15/2006	(470202)
10	03/21/2006	(470203)
11	04/17/2006	(470204)
12	05/15/2006	(499330)
13	06/08/2006	(499331)
14	07/18/2006	(521375)
15	09/01/2006	(521376)
16	09/01/2006	(521377)
17	09/18/2006	(521378)
18	10/16/2006	(545905)
19	11/16/2006	(519380)
20	11/16/2006	(545906)
21	12/18/2006	(545907)
22	01/18/2007	(577818)
23	02/06/2007	(538499)
24	02/21/2007	(577813)
25	03/23/2007	(577814)
26	04/13/2007	(577815)
27	05/10/2007	(577816)
28	06/20/2007	(577817)
29	07/17/2007	(602295)
30	09/13/2007	(602297)
31	10/03/2007	(602296)
32	10/17/2007	(602298)
33	11/12/2007	(620478)
34	12/17/2007	(620479)
35	01/09/2008	(598227)
36	01/14/2008	(620480)

37 02/14/2008 (672766)
 38 03/15/2008 (672757)
 39 04/17/2008 (672758)
 40 05/15/2008 (690776)
 41 05/22/2008 (657046)
 42 06/18/2008 (690777)
 43 07/18/2008 (690778)
 44 08/01/2008 (711644)
 46 09/17/2008 (711645)
 46 10/10/2008 (711646)
 47 11/12/2008 (728139)
 48 12/17/2008 (751079)
 49 01/19/2009 (728139)
 50 02/17/2009 (751077)
 51 03/26/2009 (751078)
 52 03/31/2009 (721335)
 53 04/20/2009 (768961)
 54 05/19/2009 (768962)
 56 06/13/2009 (768963)
 56 07/29/2009 (806700)
 57 08/19/2009 (806701)
 58 09/16/2009 (806702)
 59 10/19/2009 (806703)
 60 11/21/2009 (806704)
 61 12/13/2009 (806705)
 62 01/20/2010 (806706)
 63 02/20/2010 (806699)
 64 06/03/2010 (803474)

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

Date: 11/30/2005 (470207) CN600754592
 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: 02/26/2006 (470203) CN600754592
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (577817) CN600754592
 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: 06/30/2007 (602295) CN600754592
 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: 04/30/2008 (690776) CN600754592
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2009 (768961) CN600754592
 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: 04/30/2009 (768962) CN600754592
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2009 (806705) CN600754592
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2009 (806706) CN600754592

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2010 (806899) CN6D0754582
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 02/28/2010 CN6C0754592
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MOODY
RN102077278

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0999-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Moody ("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 domestic wastewater treatment facility located at 501 5th Street, approximately 1,500 feet northwest of the intersection of State Highway 317 and Farm-to-Market Road 107 in Moody, McLennan 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 7, 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 Four Thousand Six Hundred Fifty Dollars (\$4,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Seven Hundred Twenty Dollars (\$3,720) of the

administrative penalty and Nine Hundred Thirty Dollars (\$930) 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 by April 30, 2010, the Respondent repaired and replaced the problem areas of the wastewater collection system in order to reduce inflow and infiltration, which was overloading the wastewater treatment plant, keeping it from running efficiently.
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), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on May 19, 2010 and depicted in the table below:

Effluent Violation Table		
Permitted Effluent Limits	Flow Daily Average Max . 2 MGD	TSS Daily Average 20 mg/ L
April 30, 2009	C	25.2
November 30, 2009	C	24.75
December 31, 2009	C	45.6
January 31, 2010	C	32.5
February 28, 2010	.292222	25.5

TSS = Total Suspended Solids	mg/L = milligrams per liter	MGD = million gallons per day
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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: City of Moody, Docket No. 2010-0999-MWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010225001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. 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.
4. If the Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the 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.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the 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 Sredin
For the Executive Director

Date 10/11/2010

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.

Mike Alton
Signature

Date 8-19-10

Mike Alton
Name (Printed or typed)
Authorized Representative of
City of Moody

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 1 of this Agreed Order.

