

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2009-1275-MWD-E **TCEQ ID:** RN101611549 **CASE NO.:** 38162**RESPONDENT NAME:** Manitou Ltd., Incorporated

<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> Rolling Ridge MHP, located approximately one mile southwest of the intersection of North Graham Road and Farm-to-Market Road 2154 and approximately two miles south of the intersection of Farm-to-Market Road 2818 and Farm-to-Market Road 2154, Brazos County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</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 January 18, 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> Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC MC 149, (512) 239-321;  Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Edsel G. Jones, President, Manitou Ltd., Incorporated, 310 University Drive East, College Station, TX 77840  <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> July 10, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 3, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012015001 Operational Requirements No. 4 and 30 TEX. ADMIN. CODE § 305.125(1) and (5)].</p>	<p><b>Total Assessed:</b> \$6,950</p> <p><b>Total Deferred:</b> \$1,390  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$5,560</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 by June 15, 2009, the Respondent had re-wired the Facility to enable a backup generator to be connected to the Facility in the event of a power failure.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>Within 90 days after the effective date of this Agreed Order, install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater and submit written certification to demonstrate compliance with this Ordering Provision.</p>

Additional ID No(s): WQ0012015001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	10-Aug-2009	Screening	17-Aug-2009	EPA Due	
	PCW	12-Aug-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Manitou Ltd., Incorporated
Reg. Ent. Ref. No.	RN101611549
Facility/Site Region	9-Waco
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38162	No. of Violations	1
Docket No.	2009-1276-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$5,000</b>
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	39.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> <b>\$1,950</b>
Notes	An enhancement is recommended because the Respondent has 14 self reported effluent violations, three NOVs for non-similar violations, and one NOV for the same violation.	
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b> <b>\$0</b>
Notes	The Respondent does not meet the culpability criteria.	
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b> <b>\$0</b>
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b> <b>\$0</b>
Total EB Amounts	\$427	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$6,950</b>
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0% Adjustment	<b>\$0</b>
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	<b>Final Penalty Amount</b>	<b>\$6,950</b>
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b> <b>\$6,950</b>
<b>DEFERRAL</b>	20.0% Reduction Adjustment	<b>-\$1,390</b>
Reduces the Final Assessed Penalty by the Indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral offered for expedited settlement.	
<b>PAYABLE PENALTY</b>		<b>\$5,560</b>

<b>Screening Date</b>	17-Aug-2009	<b>Docket No.</b>	2009-1275-MWD-E	<b>PCW</b>
<b>Respondent</b>	Manitou Ltd., Incorporated	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	38162	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101611549			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Harvey Wilson			

### 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>	1	5%
	Other written NOVs	17	34%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

*Please Enter Yes or No*

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 39%

**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

An enhancement is recommended because the Respondent has 14 self-reported effluent violations, three NOVs for non-similar violations, and one NOV for the same violation.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 39%

<b>Screening Date</b>	17-Aug-2009	<b>Docket No.</b>	2009-1275-MWD-E	<b>PCW</b>
<b>Respondent</b>	Manitou Ltd., Incorporated	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	38162	PCW Revision October 30, 2009		
<b>Reg. Ent. Reference No.</b>	RN101611549			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Harvey Wilson			
<b>Violation Number</b>	1			

**Rule Cite(s)** Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012015001 Operational Requirements No. 4 and 30 Tex. Admin. Code § 305.125(1) and (5)

**Violation Description** Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

**Base Penalty** \$10,000

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

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	X			25%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.

**Adjustment** \$7,500

**Penalty Total** \$2,500

**Violation Events**

Number of Violation Events: 2      Number of violation days: 38

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

**Violation Base Penalty** \$5,000

Two monthly events are recommended from the date of the record review (July 10, 2009) until the date of screening (August 17, 2009).

**Good Faith Efforts to Comply** 0.0% Reduction      \$0

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

**Notes** The Respondent does not meet good faith criteria.

**Violation Subtotal** \$5,000

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

Estimated EB Amount: \$427      Violation Final Penalty Total: \$6,950

**This violation Final Assessed Penalty (adjusted for limits)** \$6,950

### Economic Benefit Worksheet

**Respondent:** Manitou Ltd., Incorporated  
**Case ID No.:** 38182  
**Reg. Ent. Reference No.:** RN101811549  
**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
No commas or \$							

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$5,000	27-Mar-2009	15-Jun-2010	1.22	\$20	\$406	\$427
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

The estimated cost of providing an on-site generator to serve as a back-up electrical source. Date Required is the date the violation was first documented. Final Date is the estimated date of compliance.

**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

\$5,000

TOTAL

\$427

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602516536	Manitou Ltd., Incorporated	Classification:	Rating:
			AVERAGE	2.91
Regulated Entity:	RN101611549	ROLLING RIDGE MHP	Classification:	Site Rating:
			AVERAGE	2.91
ID Number(s):	WASTEWATER	PERMIT		WQ0012015001
	WASTEWATER	PERMIT		TPDES0077526
	WASTEWATER	PERMIT		TX0077526
	WASTEWATER LICENSING	LICENSE		WQ0012015001
Location:	one mile southwest of the intersection of North Graham Road and Farm-to-Market Road 2154 and approximately two miles south of the intersection of Farm-to-Market Road 2818 and Farm-to-Market Road 2154 in Brazos County, Texas			

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: August 10, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 10, 2004 to August 10, 2009

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

Name: Harvey Wilson Phone: 239 - 0321

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

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

N/A

- 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	12/10/2007	(623700)
2	12/10/2007	(623701)
3	12/10/2007	(623702)
4	12/10/2007	(623703)
5	12/10/2007	(623704)
6	01/23/2008	(635963)
7	02/28/2008	(674929)
8	02/28/2008	(674930)
9	02/28/2008	(674931)
10	02/28/2008	(674932)
11	02/28/2008	(674933)

12	02/28/2008	(674934)
13	02/28/2008	(674935)
14	02/28/2008	(674936)
15	02/28/2008	(674937)
16	02/28/2008	(674938)
17	02/28/2008	(674939)
18	02/28/2008	(674940)
19	02/28/2008	(674941)
20	02/28/2008	(674942)
21	02/28/2008	(674943)
22	02/28/2008	(674944)
23	02/28/2008	(674945)
24	02/28/2008	(674946)
25	02/28/2008	(674947)
26	02/28/2008	(674948)
27	06/20/2008	(699463)
28	06/29/2008	(693282)
29	06/29/2008	(693283)
30	07/08/2008	(693284)
31	07/08/2008	(693285)
32	08/18/2008	(714526)
33	08/18/2008	(714527)
34	11/15/2008	(730481)
35	11/15/2008	(730482)
36	11/15/2008	(730483)
37	01/16/2009	(730484)
38	01/16/2009	(730485)
39	02/09/2009	(753699)
40	04/02/2009	(740462)
41	04/06/2009	(753700)
42	04/07/2009	(753701)
43	05/18/2009	(740313)
44	05/21/2009	(742047)
45	06/29/2009	(749106)
46	08/04/2009	(761710)

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

Date:	02/28/2006 (623701)	CN602516536
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:	03/31/2006 (623702)	CN602516536
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:	04/30/2006 (623703)	CN602516536
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	08/31/2006 (674939)	CN602516536
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:	09/30/2006 (674941)	CN602516536	
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:	10/31/2006 (674943)	CN602516536	
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:	12/31/2006 (674947)	CN602516536	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2007 (674940)	CN602516536	
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:	11/30/2007 (674946)	CN602516536	
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:	12/31/2007 (674948)	CN602516536	
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:	01/23/2008 (635963)	CN602516536	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO		Classification: Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	01/31/2008 (674930)	CN602516536	
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:	06/20/2008 (699463)	CN602516536	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	06/30/2008 (714526)	CN602516536	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		

30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 09/30/2008 (730482) CN602516536  
 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: 10/31/2008 (730483) CN602516536  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 03/27/2009 (740462) CN602516536  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Operational Requirements, No. 4, Pg. 9 PERMIT  
 Description: Failure to install and subsequently maintain adequate safeguards to prevent the  
 discharge of untreated or inadequately treated wastes during electrical power  
 failures by means of alternate power sources, standby generators, and/or retention of  
 inadequately treated wastewater.  
 Date: 05/18/2009 (740313) CN602516536  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Monitoring and Reporting Requirements PERMIT  
 Description: Failure by the permittee to ensure that automatic flow measuring devices are accurately  
 calibrated on an annual basis.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 317 317.4(a)(8)  
 Description: Failure by the permittee to make a connection from the public drinking water supply to  
 the wastewater treatment plant through an air gap or a backflow prevention device.

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  
MANITOU LTD., INCORPORATED  
RN101611549**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1275-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 Manitou Ltd., Incorporated ("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 plant at located approximately one mile southwest of the intersection of North Graham Road and Farm-to-Market Road 2154 and approximately two miles south of the intersection of Farm-to-Market Road 2818 and Farm-to-Market Road 2154 in Brazos County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 August 8, 2009.
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 Six Thousand Nine Hundred Fifty Dollars (\$6,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Five Hundred Sixty Dollars (\$5,560) of the administrative penalty and One Thousand Three Hundred Ninety Dollars (\$1,390) 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 June 15, 2009, the Respondent had re-wired the Facility to enable a backup generator to be connected to the Facility in the event of a power failure.
9. 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.
10. 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 maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012015001 Operational Requirements No. 4 and 30 TEX. ADMIN. CODE § 305.125(1) and (5), as documented during a record review conducted on July 10, 2009.

## 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: Manitou Ltd., Incorporated, Docket No. 2009-1275-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, install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater in accordance with TPDES Permit No. WQ0012015001 Operational Requirements No. 4 and submit written certification as described below, and include detailed supporting documentation including photographs, receipts, rental contracts, and/or other records to demonstrate compliance with this Ordering Provision. 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 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:

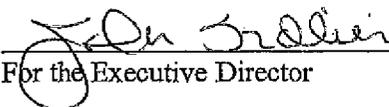
Water Section, Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Ave., Suite 2500  
Waco, Texas 76710-7826

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

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

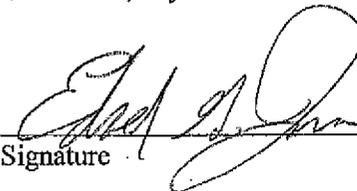
12/21/2009  
Date

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

11-10-09  
Date

Edsel G. Jones  
Name (Printed or typed)  
Authorized Representative of  
Manitou Ltd., Incorporated

President  
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.

