

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1303-MWD-E **TCEQ ID:** RN101609220 **CASE NO.:** 38142

RESPONDENT NAME: City of McGregor

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: South Plant, located adjacent to and west of State Highway 317, approximately two miles south of the intersection of United States Highway 84 and State Highway 317, McLennan County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 22, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Frank Leos, Mayor, City of McGregor, P.O. Box 192, McGregor, Texas 76657 Mr. Joseph S. Portugal, City Manager, City of McGregor, P.O. Box 192, McGregor, Texas 76657 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: July 10, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 22, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures [30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System Permit No. WQ0010219002, Operational Requirements No. 4].</p>	<p>Total Assessed: \$3,825</p> <p>Total Deferred: \$765 <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: \$3,060</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order, provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures; and</p> <p>b. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): MWD/WQ0010219-002/CO



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	27-Jul-2009	Screening	30-Jul-2009	EPA Due	
	PCW	13-Aug-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of McGregor
Reg. Ent. Ref. No.	RN101609220
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38142	No. of Violations	1
Docket No.	2009-1303-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes:

Culpability Enhancement **Subtotal 4**

Notes:

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes:

PAYABLE PENALTY

Screening Date 30-Jul-2009

Docket No. 2009-1303-MWD-E

PCW

Respondent City of McGregor

Policy Revision 2 (September 2002)

Case ID No. 38142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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)	1	5%
	Other written NOVs	14	28%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 53%

>> **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 nine monthly self-reported effluent violations, one Notice of Violation ("NOV") for violations that are considered to be same or similar, five NOVs for violations that are not considered to be same or similar, and one Agreed Order with denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 53%

Screening Date 30-Jul-2009	Docket No. 2009-1303-MWD-E	PCW														
Respondent City of McGregor		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 33142		<small>PCW Revision October 30, 2009</small>														
Reg. Ent. Reference No. RN101609220																
Media [Statute] Water Quality																
Enf. Coordinator Heather Brister																
Violation Number <input type="text" value="1"/>																
Rule Cite(s)	30 Tex. Admin. Code § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010219002, Operational Requirements No. 4															
Violation Description	Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, as documented during a record review conducted on July 10, 2009.															
	Base Penalty	<input type="text" value="\$10,000"/>														
>> Environmental, Property and Human Health Matrix																
OR	Release	Harm														
		Major Moderate Minor														
	Actual	<input type="text"/>														
	Potential	<input type="text" value="x"/>														
		Percent <input type="text" value="25%"/>														
>> Programmatic Matrix																
	Falsification	Major														
		Moderate Minor														
	<input type="text"/>	<input type="text"/>														
		Percent <input type="text" value="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 and environmental receptors as a result of the violation.															
	Adjustment	<input type="text" value="\$7,500"/>														
		<input type="text" value="\$2,500"/>														
Violation Events																
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="20"/> Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text" value="x"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text" value="x"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text" value="x"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
	One monthly event is recommended from the date of the record review (July 10, 2009) to the date of screening (July 30, 2009).															
Good Faith Efforts to Comply																
	0.0% Reduction	<input type="text" value="\$0"/>														
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>															
Extraordinary	<input type="text"/>	<input type="text"/>														
Ordinary	<input type="text"/>	<input type="text"/>														
N/A	<input type="text" value="x"/>	<small>(mark with x)</small>														
Notes	The Respondent does not meet the good faith criteria for this violation.															
	Violation Subtotal	<input type="text" value="\$2,500"/>														
Economic Benefit (EB) for this violation																
	Estimated EB Amount	<input type="text" value="\$992"/>														
Statutory Limit Test																
	Violation Final Penalty Total	<input type="text" value="\$3,825"/>														
	This violation Final Assessed Penalty (adjusted for limits)															
		<input type="text" value="\$3,825"/>														

Economic Benefit Worksheet

Respondent City of McGregor
Case ID No. 38142
Reg. Ent. Reference No. RN101609220
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
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No commas or \$

Delayed Costs

Equipment	\$15,000	20-Apr-2009	31-Mar-2010	0.95	\$47	\$945	\$992
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

Estimated cost to maintain adequate safeguards at the Facility to prevent unauthorized discharges during electrical power failures. Date required is the date the violation was first documented and final date is the expected 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

\$15,000

TOTAL

\$992

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600755631	City of McGregor	Classification: AVERAGE	Rating: 2.59
Regulated Entity:	RN101609220	SOUTH PLANT	Classification: AVERAGE	Site Rating: 0.95
ID Number(s):	WASTEWATER		PERMIT	WQ0010219002
	WASTEWATER		PERMIT	TPDES0023914
	WASTEWATER		PERMIT	TX0023914
	WATER QUALITY NON PERMITTED		ID NUMBER	090100539

Location: Located adjacent to and west of State Highway 317, approximately 2 miles south of the intersection of U.S. Highway 84 and State Highway 317 in McLennan County, Texas.

TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: August 07, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: August 07, 2004 to August 07, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: 254-761-3034

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.

Effective Date: 10/06/2008	ADMINORDER 2008-0587-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17) Rqmt Prov: Self-reporting Requirements PERMIT Sludge Provisions PERMIT	
Description: Failure to submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007 as documented during a record review conducted on January 28, 2008.	

- 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 | 09/10/2004 | (353936) |
| 2 | 09/27/2004 | (353937) |
| 3 | 10/21/2004 | (353938) |
| 4 | 03/04/2005 | (382874) |
| 5 | 03/04/2005 | (382875) |
| 6 | 03/04/2005 | (382876) |
| 7 | 04/01/2005 | (382873) |
| 8 | 04/28/2005 | (577729) |
| 9 | 04/28/2005 | (577732) |
| 10 | 06/14/2005 | (635951) |
| 11 | 06/27/2005 | (577735) |

12 06/27/2005 (577738)
 13 07/22/2005 (577741)
 14 12/29/2005 (577753)
 15 01/24/2006 (635950)
 16 02/06/2006 (577744)
 17 02/06/2006 (577746)
 18 02/06/2006 (577748)
 19 02/06/2006 (577750)
 20 02/06/2006 (577752)
 21 02/06/2006 (577754)
 22 03/24/2006 (577727)
 23 03/24/2006 (577730)
 24 05/16/2006 (577733)
 25 06/22/2006 (577736)
 26 07/10/2006 (577739)
 27 08/31/2006 (577742)
 28 09/28/2006 (577747)
 29 10/23/2006 (577749)
 30 12/29/2006 (577751)
 31 01/15/2007 (534083)
 32 01/22/2007 (577745)
 33 02/23/2007 (577728)
 34 03/19/2007 (577734)
 35 03/21/2007 (577755)
 36 03/22/2007 (577731)
 37 05/22/2007 (577737)
 38 07/22/2007 (607828)
 39 07/22/2007 (607829)
 40 08/13/2007 (577740)
 41 08/13/2007 (577743)
 42 08/24/2007 (607825)
 43 09/26/2007 (607827)
 44 11/20/2007 (620457)
 45 01/07/2008 (620458)
 46 02/25/2008 (672734)
 47 02/28/2008 (690755)
 48 02/29/2008 (619076)
 49 03/04/2008 (616141)
 50 03/25/2008 (690754)
 51 09/04/2008 (711611)
 52 09/04/2008 (711612)
 53 09/04/2008 (711613)
 54 09/04/2008 (711614)
 55 09/23/2008 (711615)
 56 10/10/2008 (702895)
 57 04/21/2009 (751046)
 58 04/21/2009 (751047)
 59 04/21/2009 (751048)
 60 04/21/2009 (751049)
 61 04/21/2009 (751050)
 62 04/21/2009 (751051)
 63 04/21/2009 (751052)
 64 04/21/2009 (751053)
 65 04/24/2009 (743135)
 66 05/20/2009 (742283)
 67 06/19/2009 (744339)
 68 07/24/2009 (762339)

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

Date:	09/30/2004	(353938)	CN600755631	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2004	(382875)	CN600755631	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			

Date:	12/31/2004	(382876)	CN600755631	Classification:	Moderate
Self Report?	YES				
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	01/31/2005	(382873)	CN600755631	Classification:	Moderate
Self Report?	YES				
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:	06/14/2005	(635951)	CN600755631	Classification:	Moderate
Self Report?	NO				
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:	01/24/2006	(635950)	CN600755631	Classification:	Moderate
Self Report?	NO				
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:	06/07/2006	(459741)	CN600755631	Classification:	Minor
Self Report?	NO				
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(b)(1) 30 TAC Chapter 317 317.4(b)(4) Operational Requirements, No. 1 Pg. 9 PERMIT				
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.				

Date: 08/31/2006 (577747) CN600755631
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006 (577749) CN600755631
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2006 (577755) CN600755631
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (577737) CN600755631
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: 05/01/2007 (540402) CN600755631
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
Permit Conditions; No. 2(d) Pg. 7 PERMIT
Description: Failure by the permittee to prevent the discharge and accumulation of sewer sludge in the receiving stream.

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. 1 Pg. 9 PERMIT
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 04/30/2008 (711612) CN600755631
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: 04/23/2009 (743135) CN600755631
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 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: 06/22/2009 (744339)

CN600755631

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Description: Failure to obtain a permit for storm water discharges associated with an industrial facility.

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 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO

Classification: Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

Final Effluent Limitations PERMIT

Description: Failure to discharge effluent in compliance with permitted effluent limitations.

Self Report? NO

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

Final Effluent Limitations PERMIT

Description: Failure to discharge effluent in compliance with permitted effluent limitations.

- 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 MCGREGOR
RN101609220**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1303-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 McGregor ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located adjacent to and west of State Highway 317, approximately two miles south of the intersection of United States Highway 84 and State Highway 317 in McLennan County, Texas (the "Facility").
2. The City has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about July 27, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Eight Hundred Twenty-Five Dollars (\$3,825) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The City has paid Three Thousand Sixty Dollars (\$3,060) of the administrative penalty and Seven Hundred Sixty-Five Dollars (\$765) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
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 City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. 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 City has not complied with one or more of the terms or conditions in this Agreed Order.
 10. 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.
 11. 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 City is alleged to have failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010219002, Operational Requirements No. 4, as documented during a record review conducted on July 10, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City'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 McGregor, Docket No. 2009-1303-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 City shall undertake the following technical requirements:
- a. Within 90 days after the effective date of this Agreed Order, provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, in accordance with TPDES Permit No. WQ0010219002, Operational Requirements No. 4; and
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

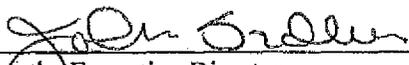
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
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 City, or three days after the date on which the Commission mails notice of the Order to the City, 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

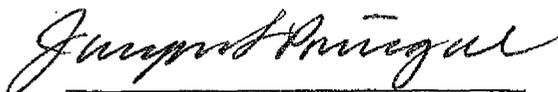
2/8/2010
Date

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.



Signature

11/30/09
Date

JOSEPH S. PORTUGAL

Name (Printed or typed)
Authorized Representative of
City of McGregor

CITY MANAGER

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.

