

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1774-MWD-E **TCEQ ID:** RN101610939 **CASE NO.:** 38622
RESPONDENT NAME: City of Henrietta

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: North Plant, located approximately 1,800 feet west of Farm-to-Market Road 1197, approximately 4,700 feet northwest of United States Highway 82 and Farm-to-Market Road 1197 intersection at Bridge and Omega Streets, northwest of Henrietta, Clay 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 March 15, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Tom Griffin, Mayor, City of Henrietta, P.O. Box 409, Henrietta, Texas 76365 Mr. Jeff Jenkins, City Administrator, City of Henrietta, P.O. Box 409, Henrietta, Texas 76365 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 29, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 9, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations for total suspended solids, carbonaceous biochemical oxygen demand, and ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010454001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to timely submit the discharge monitoring report ("DMR") for the monitoring period ending October 31, 2008, by the 20th day of the following month [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010454001, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failure to timely submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010454001, Sludge Provisions].</p>	<p>Total Assessed: \$5,074</p> <p>Total Deferred: \$1,014 <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: \$4,060</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. During June 2009, contacted the utility company to address the capacitor issue which led to the broken pump at the Facility, and replaced the broken pump;</p> <p>b. During July 2009, returned to compliance with all permitted effluent limitations;</p> <p>c. On October 16, 2009, submitted the DMR for the monitoring period ending October 31, 2008 to the TCEQ; and</p> <p>d. On October 28, 2009, submitted the 2008 annual sludge report to the TCEQ.</p>

Additional ID No(s): WQ0010454001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Oct-2009	Screening	30-Oct-2009	EPA Due	
	PCW	26-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Henrietta
Reg. Ent. Ref. No.	RN101610939
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38622	No. of Violations	3
Docket No.	2009-1774-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		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 ***Capped at the Total EB \$ Amount**
 Approx. Cost of Compliance

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-Oct-2009

Docket No. 2009-1774-MWD-E

PCW

Respondent City of Henrietta

Policy Revision 2 (September 2002)

Case ID No. 38622

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610939

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	16	80%
	Other written NOVs	1	2%
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) 82%

>> 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 due to two NOVs with violations same or similar to those cited in this action, 14 self-reported effluent violations, and one unrelated NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 30-Oct-2009

Docket No. 2009-1774-MWD-E

PCW

Respondent City of Henrietta

Policy Revision 2 (September 2002)

Case ID No. 38622

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610939

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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. WQ0010454001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on July 29, 2009 and as shown in the attached violation table.

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

A simplified model was used to evaluate carbonaceous biochemical oxygen demand and total ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 120

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$750

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

Notes: The Respondent achieved compliance by July 31, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$249

Violation Final Penalty Total \$4,710

This violation Final Assessed Penalty (adjusted for limits) \$4,710

Economic Benefit Worksheet

Respondent City of Henrietta
Case ID No. 38622
Reg. Ent. Reference No. RN101610939
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$6,136	31-Dec-2008	31-Jul-2009	0.58	\$12	\$238	\$249
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
 Actual cost to contact the utility company to address the capacitor issue which led to a broken pump at the Facility, and to replace the broken pump that caused the effluent violations. Date required is the initial date of noncompliance. Final date is the date of compliance with all permitted effluent limits.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$6,136
TOTAL \$249

Screening Date 30-Oct-2009

Docket No. 2009-1774-MWD-E

PCW

Respondent City of Henrietta

Policy Revision 2 (September 2002)

Case ID No. 38822

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610939

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 2

Rule Cite(s) 30 Tex. Admin Code § 305.125(17) and TPDES Permit No. WQ0010454001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit the discharge monitoring report (DMR) for the monitoring period ending October 31, 2008, by the 20th day of the following month, as documented during a record review on July 29, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

At least 70% of permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

330 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$182

This violation Final Assessed Penalty (adjusted for limits) \$182

Economic Benefit Worksheet

Respondent: City of Henrietta
Case ID No.: 38622
Reg. Ent. Reference No.: RN101810939
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	20-Nov-2008	18-Oct-2009	0.90	\$0	\$2	\$2
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 amount required to submit the DMR for the monitoring period ending October 31, 2008 to the TCEQ. Date required is the date the DMR was due. Final date is the date the DMR was submitted.

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 \$25 **TOTAL** \$2

Screening Date 30-Oct-2009

Docket No. 2009-1774-MWD-E

PCW

Respondent City of Henrietta

Policy Revision 2 (September 2002)

Case ID No. 38622

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610939

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 3

Rule Cite(s) 30 Tex. Admin Code § 305.125(17) and TPDES Permit No. WQ0010454001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008, as documented during a record review on July 29, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
				x	
At least 70% of the permit requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 422

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$182

This violation Final Assessed Penalty (adjusted for limits) \$182

Economic Benefit Worksheet

Respondent City of Henrietta
Case ID No. 38622
Reg. Ent. Reference No. RN101610939
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Sep-2008	28-Oct-2009	1.18	\$0	\$8	\$8
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 amount required to submit the annual sludge report to the TCEQ. Date required is the date the report was due. Final date is the date the annual sludge report was submitted.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$8

EFFLUENT VIOLATION TABLE

City of Henrietta North Plant
 TPDES Permit No. WQ0010454001
 Docket No. 2009-1774-MWD-E

Permitted Effluent Limits	Monitoring Period End Date			
	12/31/08	2/28/09	3/31/09	6/30/09
TSS daily avg. conc. Limit = 15 mg/L	23.2	23.75	c	c
CBOD daily avg. conc. Limit = 10 mg/L	11	13.75	c	c
NH ₃ -N daily avg. conc. Limit = 3 mg/L	5.4	10.032	4.73	8.03
NH ₃ -N daily avg. loading Limit = 6.1 lbs/day	c	7.286	c	7.33
NH ₃ -N single grab Limit = 15 mg/L	c	17.6	c	19.2

TSS = total suspended solids
 CBOD = carbonaceous biochemical
 oxygen demand
 NH₃-N = total ammonia nitrogen
 conc. = concentration

avg. = average
 lbs/day = pounds per day
 mg/L = milligrams per liter
 c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600691893	CITY OF HENRIETTA	Classification: AVERAGE	Rating: 2.47
Regulated Entity:	RN101610939	NORTH PLANT	Classification: AVERAGE	Site Rating: 1.27
ID Number(s):	WASTEWATER	PERMIT	WQ0010454001	
	WASTEWATER	PERMIT	TPDES0022306	
	WASTEWATER	PERMIT	TX0022306	
	WASTEWATER LICENSING	LICENSE	WQ0010454001	
Location:	approximately 1,800 feet west of Farm-to-Market Road 1197, approximately 4,700 feet northwest of U.S. Highway 92 and Farm-to-Market Road 1197 intersection at Bridge and Omega Streets, northwest of the City of Henrietta, in Clay County, Texas.			

TCEQ Region: REGION 03 - ABILENE
 Date Compliance History Prepared: November 06, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 06, 2004 to November 06, 2009

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

Name: Lanae Foard Phone: 512-239-2654

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 judgments, 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	11/12/2004	(382445)
2	11/12/2004	(382446)
3	02/14/2005	(420304)
4	02/14/2005	(420305)
5	02/14/2005	(420306)
6	02/15/2005	(420300)
7	03/08/2005	(382444)
8	04/15/2005	(420301)
9	05/20/2005	(420302)
10	07/05/2005	(420303)
11	07/22/2005	(441367)
12	08/11/2005	(441368)
13	09/12/2005	(441369)
14	02/13/2006	(469423)
15	02/13/2006	(469424)
16	02/13/2006	(469425)
17	02/13/2006	(469426)
18	05/19/2006	(498880)
19	05/19/2006	(498881)
20	06/06/2006	(498882)
21	06/29/2006	(498883)
22	07/28/2006	(520897)
23	07/28/2006	(520898)
24	08/30/2006	(520899)
25	10/02/2006	(576813)
26	10/13/2006	(576814)
27	12/22/2006	(576815)
28	01/29/2007	(576817)
29	02/12/2007	(576816)

30	03/16/2007	(576808)
31	03/16/2007	(576809)
32	05/16/2007	(558750)
33	06/14/2007	(576810)
34	06/14/2007	(576811)
35	06/14/2007	(576812)
36	07/18/2007	(602016)
37	08/23/2007	(602017)
38	09/24/2007	(602018)
39	11/12/2007	(620017)
40	11/16/2007	(620018)
41	12/13/2007	(620019)
42	02/15/2008	(672473)
43	03/10/2008	(690412)
44	04/02/2008	(640098)
45	04/17/2008	(690413)
46	05/16/2008	(690414)
47	07/14/2008	(711245)
48	07/14/2008	(711246)
49	08/13/2008	(711247)
50	08/25/2008	(688017)
51	09/15/2008	(711248)
52	10/23/2008	(711249)
53	12/22/2008	(727651)
54	01/21/2009	(750744)
55	02/20/2009	(750743)
56	04/20/2009	(741633)
57	04/23/2009	(788686)
58	05/22/2009	(788685)
59	05/22/2009	(788687)
60	06/30/2009	(760480)
61	10/09/2009	(764028)

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

Date:	11/30/2004	(420305)	CN600691893
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2005	(420300)	CN600691893
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2005	(382444)	CN600691893
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2005	(420301)	CN600691893
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:	04/30/2005	(420302)	CN600691893
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/31/2005	(420303)	CN600691893
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2005	(469425)	CN600691893
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2007	(576808)	CN600691893
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	03/31/2007	(576810)	CN600691893	
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:	05/08/2007	(558750)	CN600691893	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)			
Description:	Failure to analyze the dissolved oxygen (DO) within 15 minutes of sample collection.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 319, SubChapter A 319.11(b)			
Description:	Failure to analyze the chlorine (CL2) within 15 minutes of sample collection.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.121 30 TAC Chapter 317 317.3(e)(5)			
Description:	Failure to have alarm systems on the Wichita lift station and Petrolia lift station.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.6 30 TAC Chapter 319, SubChapter A 319.9(c) WQ0010454001 PERMIT			
Description:	Failure to calibrate the pH meter with buffers which bracket the expected pH value measured.			
Date:	08/31/2007	(602018)	CN600691893	
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:	08/26/2008	(688017)	CN600691893	
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) WQ0010454001 PERMIT			
Description:	Failure to properly operate and maintain the chlorine contact chamber.			
Self Report?	NO		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) WQ0010454001 PERMIT			
Description:	Failure to prevent and mitigate the accumulation of sludge in the receiving stream.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(a) 30 TAC Chapter 317 317.3(e)(4)(C) WQ0010454001 PERMIT			
Description:	Failure to secure lift stations in an intruder-resistant manner.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)			
Description:	Failure to provide the required reduced pressure backflow assembly (RPBA) on the public water supply line located at a wastewater treatment facility (lift stations).			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.2(d)(5)(E) WQ0010454001 PERMIT			
Description:	Failure to provide two operable pumps on the Wichita, Petrolia, and Wiggins lift stations.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.3(e) WQ0010454001 PERMIT			
Description:	Failure to provide adequate safeguards in the event of an electrical power failure.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) WQ0010454001 PERMIT			
Description:	Failure to annually calibrate the effluent flow meter.			
Date:	12/31/2008	(750744)	CN600691893	
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:	02/28/2009	(768685)	CN600691893	
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	(768686)	CN600691893	

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:	04/20/2009	(741633)	CN600691893
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) WQ0010454001 PERMIT		
Description:	Failure to properly operate and maintain the chlorine contact chamber.		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) WQ0010454001 PERMIT		
Description:	Failure to prevent and mitigate the accumulation of sludge in the receiving stream.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(a) 30 TAC Chapter 317 317.3(e)(4)(C) WQ0010454001 PERMIT		
Description:	Failure to secure lift stations in an intruder-resistant manner.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to provide the required reduced pressure backflow assembly (RPBA) on the public water supply line located at a wastewater treatment facility (lift stations).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.2(d)(5)(E) WQ0010454001 PERMIT		
Description:	Failure to provide two operable pumps on the Wchita, Petrolia, and Wiggins lift stations.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) WQ0010454001 PERMIT		
Description:	Failure to annually calibrate the effluent flow meter.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C) WQ0010454001 PERMIT		
Description:	Failure to submit the annual sludge report (September 07-August 08) by September 1, 2008.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) WQ0010454001 PERMIT		
Description:	Failure to maintain the effluent flow meter accuracy.		
Date:	06/30/2009		CN600691893
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 HENRIETTA
RN101610939**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1774-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 Henrietta ("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 approximately 1,800 feet west of Farm-to-Market Road 1197, approximately 4,700 feet northwest of United States Highway 82 and Farm-to-Market Road 1197 intersection at Bridge and Omega Streets, northwest of Henrietta in Clay County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. 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 October 14, 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 Five Thousand Seventy-Four Dollars (\$5,074) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Four Thousand Sixty Dollars (\$4,060) of the administrative penalty and One Thousand Fourteen Dollars (\$1,014) 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 recognizes that the City has implemented the following corrective measures at the Facility:
 - a. During June 2009, contacted the utility company to address the capacitor issue which led to the broken pump at the Facility, and replaced the broken pump;
 - b. During July 2009, returned to compliance with all permitted effluent limitations;
 - c. On October 16, 2009, submitted the discharge monitoring report ("DMR") for the monitoring period ending October 31, 2008 to the TCEQ; and
 - d. On October 28, 2009, submitted the 2008 annual sludge report to the TCEQ.
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 City 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 City is alleged to have:

1. Failed to comply with the permitted effluent limitations, 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. WQ0010454001, Effluent Limitations and Monitoring

Requirements No. 1, as documented during a record review conducted on July 29, 2009, and as shown in the following violation table:

EFFLUENT VIOLATION TABLE				
Permitted Effluent Limits	Monitoring Period End Date			
	12/31/08	2/28/09	3/31/09	6/30/09
TSS daily avg. conc. Limit = 15 mg/L	23.2	23.75	c	c
CBOD daily avg. conc. Limit = 10 mg/L	11	13.75	c	c
NH ₃ -N daily avg. conc. Limit = 3 mg/L	5.4	10.032	4.73	8.03
NH ₃ -N daily avg. loading Limit = 6.1 lbs/day	c	7.286	c	7.33
NH ₃ -N single grab Limit = 15 mg/L	c	17.6	c	19.2

TSS = total suspended solids
 CBOD = carbonaceous biochemical oxygen demand
 NH₃-N = ammonia nitrogen
 conc. = concentration

avg. = average
 lbs/day = pounds per day
 mg/L = milligrams per liter
 c = compliant

2. Failed to timely submit the DMR for the monitoring period ending October 31, 2008, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010454001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on July 29, 2009.
3. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010454001, Sludge Provisions, as documented during a record review conducted on July 29, 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 Henrietta, Docket No. 2009-1774-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the 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.
3. 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.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the 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

2/17/2010

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

1/04/10

Date

Jeff Jenkins

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

City Administrator

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.

