

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1814-MWD-E **TCEQ ID:** RN101917169 **CASE NO.:** 38660

RESPONDENT NAME: City of Gonzales

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Gonzales, located at the confluence of the Guadalupe River and Tinsley Creek, approximately 4,000 feet east of United States Highway 183 and approximately 5,000 feet south of United States Highway 90-A, Gonzales County</p> <p>TYPE OF OPERATION: Domestic wastewater system</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 8, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Carlie Konkol, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0735; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. David Huseman, City Manager, City of Gonzales, P.O. Box 547, Gonzales, Texas 78629 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: September 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 30, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limitations for biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System Permit No. WQ0010488001, Interim Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$3,525</p> <p>Total Deferred: \$705 <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: \$2,820</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent completed reconstruction of the aeration basin and returned to compliance by July 31, 2009.</p>

Additional ID No(s): WQ0010488001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Nov-2009	Screening	5-Nov-2009	EPA Due	5-Dec-2009
	PCW	5-Nov-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Gonzales
Reg. Ent. Ref. No.	RN101917169
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38660	No. of Violations	1
Docket No.	2009-1814-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Carlie Konkol
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability **Subtotal 4**

Notes

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

Economic Benefit **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 5-Nov-2009

Docket No. 2009-1814-MWD-E

PCW

Respondent City of Gonzales

Policy Revision 2 (September 2002)

Case ID No. 38660

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917169

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

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)	14	70%
	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) 72%

>> 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 for having twelve monthly self-reported effluent violations, two Notices of Violations ("NOVs") for same or similar violations and one NOV with a non-similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 72%

Screening Date 5-Nov-2009

Docket No. 2009-1814-MWD-E

PCW

Respondent City of Gonzales

Policy Revision 2 (September 2002)

Case ID No. 38660

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917169

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010488001, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review on September 21, 2009, and shown in the attached Effluent Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
125000	Actual			X	25%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

A simplified model was used to evaluate 5-day biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 61

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent returned to compliance by July 31, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,182

Violation Final Penalty Total \$3,525

This violation Final Assessed Penalty (adjusted for limits) \$3,525

Economic Benefit Worksheet

Respondent City of Gonzales
Case ID No. 38660
Reg. Ent. Reference No. RN101917169
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$125,000	1-May-2009	31-Jul-2009	0.25	\$104	\$2,078	\$2,182
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 costs to reconstruct the aeration basin. The Date Required is the first date of noncompliance and the Final Date is the date the Respondent returned to 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

\$125,000

TOTAL

\$2,182

City of Gonzales
Docket No. 2009-1814-MWD-E
TPDES Permit No. WQ0010488001

EFFLUENT TABLE			
Monitoring Periods	Permit Effluent Limits		
	5-day BOD Daily Average Conc. 10 mg/L	5-day BOD Daily Maximum Conc. 25 mg/L	5-day BOD Daily Average Loading 125 lbs/day
May 2009	37.63	78.00	235.26
June 2009	40.88	194.00	138.55

BOD – Biochemical Oxygen Demand
mg/L – Milligrams per Liter
lbs/day – Pounds per Day
Conc. - Concentration

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600249353	City of Gonzales	Classification: AVERAGE	Rating: 1.71
Regulated Entity:	RN101917169	CITY OF GONZALES	Classification: AVERAGE	Site Rating: 0.95
ID Number(s):	WASTEWATER		PERMIT	WQ0010488001
	WASTEWATER		PERMIT	TPDES0027243
	WASTEWATER		PERMIT	TX0027243
	WASTEWATER LICENSING		LICENSE	WQ0010488001
Location:	LOCATED AT THE CONFLUENCE OF THE GUADALUPE RIVER AND TINSLEY CREEK, APPROXIMATELY 4,000 FEET EAST OF U.S. HIGHWAY 183 AND APPROXIMATELY 5,000 FEET SOUTH OF U.S. HIGHWAY 90-A IN GONZALES COUNTY, TEXAS			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	November 03, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 02, 2004 to November 02, 2009			

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

Name: Carlie Konkol Phone: (361) 825-3422

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2009 Repeat Violator: NO | |

Components (Multimedia) for the Site :

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

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/16/2004	(355010)
2	12/31/2004	(383480)
3	01/13/2005	(383481)
4	02/16/2005	(383478)
5	03/15/2005	(383479)
6	04/12/2005	(421339)
7	05/26/2005	(393732)
8	05/26/2005	(421340)
9	06/16/2005	(421341)
10	07/20/2005	(442318)
11	07/20/2005	(442322)
12	08/04/2005	(442319)
13	09/16/2005	(442320)
14	10/11/2005	(431991)
15	10/14/2005	(442321)
16	11/16/2005	(500019)
17	12/15/2005	(500020)
18	02/22/2006	(500013)
19	03/13/2006	(500014)
20	04/10/2006	(500015)
21	05/18/2006	(500016)
22	06/16/2006	(500017)
23	07/20/2006	(500018)

24	08/15/2006	(522120)
25	09/19/2006	(522121)
26	10/18/2006	(579090)
27	11/16/2006	(579091)
28	02/20/2007	(579084)
29	03/20/2007	(579085)
30	03/20/2007	(579086)
31	03/22/2007	(593230)
32	03/28/2007	(579092)
33	03/28/2007	(579093)
34	05/14/2007	(579087)
35	06/18/2007	(579088)
36	07/17/2007	(579089)
37	09/05/2007	(602705)
38	09/05/2007	(602708)
39	09/13/2007	(602706)
40	10/20/2007	(602707)
41	12/20/2007	(620957)
42	12/20/2007	(620958)
43	02/14/2008	(616092)
44	02/20/2008	(673124)
45	03/13/2008	(673125)
46	04/15/2008	(673126)
47	04/21/2008	(673127)
48	04/21/2008	(673128)
49	05/13/2008	(691275)
50	06/18/2008	(691276)
51	08/19/2008	(712133)
52	09/15/2008	(712134)
53	10/14/2008	(712135)
54	11/17/2008	(728498)
55	12/19/2008	(728499)
56	02/18/2009	(751586)
57	03/19/2009	(751587)
58	04/20/2009	(751588)
59	05/19/2009	(769344)
60	06/11/2009	(769345)
61	10/30/2009	(777054)

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

Date:	11/30/2004	(383480)	CN600249353	
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	(421339)	CN600249353	
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:	05/27/2005	(393732)	CN600249353	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. 10488-001 PERMIT			
Description:	Failure to meet the permitted effluent limit for TSS daily maximum concentration during the month of April 2004.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.7(e)			
Description:	Failure to secure the facility with a man-proof fence.			

Date:	07/31/2005	(442319)	CN600249353	
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:	05/31/2006	(500017)	CN600249353	
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:	07/31/2006	(522120)	CN600249353	
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	(579093)	CN600249353	
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:	03/22/2007	(593230)	CN600249353	
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:	03/31/2007	(579086)	CN600249353	
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	(579087)	CN600249353	
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:	02/14/2008	(616092)	CN600249353	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)			
Description:	Failure to test the backflow prevention devices at least annually.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements; No. 1, Pg. 9 PERMIT			
Description:	Failure to properly operate and maintain the facility and all of its systems of collection, treatment, and disposal.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.7(i)			
Description:	Failure to install atmospheric vacuum breakers on all potable water washdown hoses.			
Self Report?	NO		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(4) Permit Conditions; No. 2g, Pg. 7 PERMIT			

Description: Failure to prevent the discharge of sewage into or adjacent to waters in the state.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limit & Monit. Req; No. 1, Pg.2 PERMIT

Description: Failure to comply with the effluent limitations, specifically the average discharge during any two-hour period shall not exceed 3125 gallons per minute (gpm).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to meet the preservation methods specified in 40 Code of Federal Regulations Part 136.

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions; No. 2g, Pg. 7 PERMIT

Description: Failure to prevent the discharge of sewage into or adjacent to waters in the state.

Date: 06/30/2008 (673127) CN600658645

Self Report? YES Classification: Moderate

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

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

Date: 04/30/2009 (769344) CN600658645

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: 05/31/2009 (769345) CN600658645

Self Report? YES Classification: Moderate

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

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

Date: 06/30/2009 CN600658645

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 GONZALES
RN101917169**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1814-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 Gonzales ("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 domestic wastewater system at located at the confluence of the Guadalupe River and Tinsley Creek, approximately 4,000 feet east of United States Highway 183 and approximately 5,000 feet south of United States Highway 90-A in Gonzales 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 November 4, 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 Five Hundred Twenty-Five Dollars (\$3,525) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The City has paid Two Thousand Eight Hundred Twenty Dollars (\$2,820) of the administrative penalty and Seven Hundred Five Dollars (\$705) 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 completed reconstruction of the aeration basin and returned to compliance by July 31, 2009.
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 failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010488001, Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 21, 2009, and shown in the table below:

EFFLUENT TABLE			
Monitoring Periods	Permit Effluent Limits		
	5-day BOD Daily Average Conc. 10 mg/L	5-day BOD Daily Maximum Conc. 25 mg/L	5-day BOD Daily Average Loading 125 lbs/day
May 2009	37.63	78.00	235.26
June 2009	40.88	194.00	138.55

BOD – Biochemical Oxygen Demand
mg/L – Milligrams per Liter
lbs/day – Pounds per Day
Conc. - Concentration

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 Gonzales, Docket No. 2009-1814-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

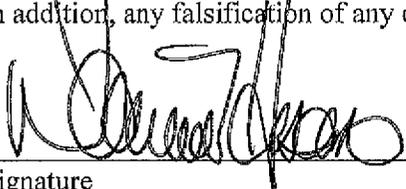
Date 2/17/2010

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

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

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

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



Signature

Date 17 DEC 2009

DAVID HUSEMAN
Name (Printed or typed)
Authorized Representative of
City of Gonzales

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.

ENTERED
DEC 21 2009