

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1770-MWD-E **TCEQ ID:** RN101613537 **CASE NO.:** 38624

RESPONDENT NAME: City of Texarkana

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: Wagner Creek WWTP, located approximately 2,300 feet west of Spur 151 and 3,300 feet south of State Highway 82, Bowie 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 22, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. William D. King, Jr., Executive Director, Texarkana Water Utilities, City of Texarkana, P.O. Box 2008, Texarkana, Texas 75504 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 22, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 23, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limitations for ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010374007, Interim Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$6,200</p> <p>Total Deferred: \$1,240 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$4,960</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 by April 30, 2009, the Respondent:</p> <p>a. Updated standard operating procedures to perform additional periodic tests to monitor nitrogen loading levels and to divert the effluent to an additional wastewater treatment facility if the effluent contains increased nitrogen levels; and</p> <p>b. Returned to compliance with the permitted effluent limits of TPDES Permit No. WQ0010374007.</p>

Additional ID No(s): WQ0010374007



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	26-Oct-2009	Screening	30-Oct-2009	EPA Due	5-Sep-2009
	PCW	30-Oct-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Texarkana		
Reg. Ent. Ref. No.	RN101613537		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38624	No. of Violations	1
Docket No.	2009-1770-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lauren Smitherman
		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	\$5,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	49.0% Enhancement	Subtotals 2, 3, & 7	\$2,450
---------------------------	-------------------	--------------------------------	---------

Notes Enhancement due to nine monthly self-reported effluent violations and two NOVs with unrelated violations to those cited in this action.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,250
--	-------------------	---------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$8
Approx. Cost of Compliance	\$250

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,200
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$6,200
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,200
-----------------------------------	-------------------------------	---------

DEFERRAL	20.0% Reduction	Adjustment	-\$1,240
-----------------	-----------------	-------------------	----------

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,960
------------------------	---------

Screening Date 30-Oct-2009

Docket No. 2009-1770-MWD-E

PCW

Respondent City of Texarkana

Policy Revision 2 (September 2002)

Case ID No. 38624

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613537

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

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)	9	45%
	Other written NOVs	2	4%
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%
<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) 49%

>> 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

Enhancement due to nine monthly self-reported effluent violations and two NOVs with unrelated violations to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 49%

Screening Date 30-Oct-2009

Docket No. 2009-1770-MWD-E

PCW

Respondent City of Texarkana

Policy Revision 2 (September 2002)

Case ID No. 38624

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101813537

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

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. WQ0010374007, 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 22, 2009, and shown in the attached Effluent Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen 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 that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 62

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

Violation Base Penalty \$5,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction \$1,250

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

Notes The Respondent achieved compliance during April 2009.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Estimated EB Amount \$6

Statutory Limit Test

Violation Final Penalty Total \$6,200

This violation Final Assessed Penalty (adjusted for limits) \$6,200

Economic Benefit Worksheet

Respondent City of Texarkana
Case ID No. 38624
Reg. Ent. Reference No. RN101813537
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	31-Oct-2008	30-Apr-2009	0.50	\$6	n/a	\$6
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

Delayed cost to update standard operating procedures to perform additional periodic tests to monitor nitrogen loading levels and to divert the effluent to an additional wastewater treatment facility if the effluent contains increased nitrogen levels. Date Required is the first month of noncompliance. Final Date is the 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

\$250

TOTAL

\$6

EFFLUENT VIOLATION TABLE			
City of Texarkana			
TPDES Permit No. WQ0010374007			
Docket No. 2009-1770-MWD-E			
	NH₃-N Daily Avg. Loading	NH₃-N Daily Avg. Conc	NH₃-N Daily Max Conc
Months	Limit = 34 lbs/day	Limit = 2 mg/L	Limit = 7 mg/L
10/31/2008	35.3	3.19	12.5
3/31/2009	35.1	2.19	13.6
conc. = concentration		NH ₃ -N = ammonia nitrogen	
lbs/day = pounds per day		mg/L = milligrams per liter	
max. = maximum		avg. = average	

Compliance History Report

Customer/Respondent/Owner-Operator: CN600335830 City of Texarkana Classification: AVERAGE Rating: 2.59
 Regulated Entity: RN101613537 WAGNER CREEK WWTP Classification: AVERAGE Site Rating: 0.54

ID Number(s): WASTEWATER PERMIT WQ0010374007
 WASTEWATER PERMIT TPDES0099287
 WASTEWATER PERMIT TX0099287
 WASTEWATER LICENSING LICENSE WQ0010374007

Location: APPRX 2,300 FT W OF SPUR 151 AND
 3,300 FT S OF SH 82 IN BOWIE CO, TX

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: October 29, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 29, 2004 to October 29, 2009

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

Name: Lauren Smitherman Phone: 512-239-5223

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	(363307)	14	12/16/2005	(478657)
2	12/20/2004	(388182)	15	01/17/2006	(478658)
3	01/20/2005	(388183)	16	02/14/2006	(478653)
4	02/14/2005	(388180)	17	03/15/2006	(478654)
5	03/09/2005	(388181)	18	04/18/2006	(504747)
6	04/20/2005	(425757)	19	05/16/2006	(504748)
7	05/19/2005	(425758)	20	06/12/2006	(482240)
8	06/21/2005	(425759)	21	06/20/2006	(504749)
9	07/15/2005	(446266)	22	07/19/2006	(527056)
10	08/16/2005	(446267)	23	08/15/2006	(527057)
11	09/14/2005	(446268)	24	09/18/2006	(527058)
12	10/18/2005	(478655)	25	10/17/2006	(550924)
13	11/18/2005	(478656)	26	11/16/2006	(550925)

27	12/19/2006	(550926)	44	04/22/2008	(694569)
28	01/22/2007	(587393)	45	05/16/2008	(694570)
29	02/20/2007	(587388)	46	06/16/2008	(694571)
30	02/27/2007	(533346)	47	07/16/2008	(716014)
31	03/20/2007	(587389)	48	08/06/2008	(615719)
32	04/18/2007	(587390)	49	08/15/2008	(716015)
33	05/18/2007	(587391)	50	09/17/2008	(716016)
34	06/18/2007	(587392)	51	10/17/2008	(731608)
35	07/16/2007	(605008)	52	10/29/2008	(720864)
36	08/29/2007	(605009)	53	11/18/2008	(731609)
37	09/13/2007	(605010)	54	12/16/2008	(754966)
38	10/16/2007	(627677)	55	01/14/2009	(754967)
39	11/19/2007	(627678)	56	02/18/2009	(754964)
40	12/19/2007	(627679)	57	03/13/2009	(754965)
41	01/15/2008	(676204)	58	04/15/2009	(772134)
42	02/25/2008	(676202)	59	06/25/2009	(759616)
43	03/18/2008	(676203)	60	10/23/2009	(777037)

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

Date: 10/31/2004 (363307) CN600335830
 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 (425757) CN600335830
 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: 01/31/2006 (478653) CN600335830
 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 (527057) CN600335830
 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 (587388) CN600335830
 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: 02/27/2007 (533346) CN600335830
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(g)(4)(B)
 Description: Failure to maintain and repair aeration lines.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.1
 Description: Failure to maintain and repair areas of rust.

Date: 09/30/2007 (627677) CN600335830
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: 03/31/2008 (694569) CN600335830
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/29/2008 (720864) CN600335830
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: 10/31/2008 (731609) CN600335830
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 (772134) CN600335830
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 TEXARKANA
RN101613537

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

AGREED ORDER
DOCKET NO. 2009-1770-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 Texarkana ("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 2,300 feet west of Spur 151 and 3,300 feet south of State Highway 82 in Bowie 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 28, 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 Six Thousand Two Hundred Dollars (\$6,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Four Thousand Nine Hundred Sixty Dollars (\$4,960) of the administrative penalty and One Thousand Two Hundred Forty Dollars (\$1,240) 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 by April 30, 2009, the City:
 - a. Updated standard operating procedures to perform additional periodic tests to monitor nitrogen loading levels and to divert the effluent to an additional wastewater treatment facility if the effluent contains increased nitrogen levels; and
 - b. Returned to compliance with the permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010374007.
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 TPDES Permit No. WQ0010374007, Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on September 22, 2009, and shown in the following Effluent Violation Table:

EFFLUENT VIOLATION TABLE			
Month	NH ₃ -N Daily Avg Loading	NH ₃ -N Daily Avg Conc.	NH ₃ -N Daily Max Conc.
	lbm = lbs/day	lbm = 2/mg/L	lbm = 2/mg/L
10/31/2008	35.3	3.19	12.5
5/31/2009	35.1	2.19	13.6
conc. = concentration		NH ₃ -N = ammonia nitrogen	
lbs/day = pounds per day		mg/L = milligrams per liter	
max. = maximum		avg. = average	

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 Texarkana, Docket No. 2009-1770-MWD-E" to:

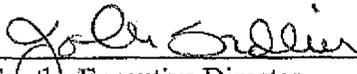
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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

2/25/2010
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

January 12, 2010
Date

William D. King, Jr.

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

Executive Director

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.