

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1924-MWD-E TCEQ ID: RN101920692 CASE NO.: 38760

RESPONDENT NAME: City of Hempstead

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 Hempstead, located at the intersection of 23rd Street and Hamilton Street, approximately 1.5 miles southwest of the intersection of United States Highway 290 and State Highways 6 and 159, Waller County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 April 26, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Michael S. Wolfe, Sr., Mayor, City of Hempstead, 1125 Austin Street, Hempstead, Texas 77445 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: October 29, 2009</p> <p>Date of NOE Relating to this Case: November 11, 2009</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits of ammonia nitrogen and dissolved oxygen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010948001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].</p>	<p>Total Assessed: \$24,750</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$24,750</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>Findings Orders Justification:</p> <p>Human health has been exposed to pollutants which exceed levels that are protective.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010948001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0010948001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Nov-2009	Screening	16-Nov-2009	EPA Due	
	PCW	17-Nov-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Hempstead		
Reg. Ent. Ref. No.	RN101920692		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38760	No. of Violations	2
Docket No.	2009-1924-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
		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	\$11,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	125.0% Enhancement	Subtotals 2, 3, & 7 \$13,750

Notes: The penalty is enhanced due to 15 self-reported monthly effluent violations, one NOV with similar violations to those cited in this action, one final agreed order containing a denial of liability, and one final agreed order without a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$437	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$5,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$24,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Notes: Reduces or enhances the Final Subtotal by the indicated percentage.

Final Penalty Amount	\$24,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$24,750
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Notes: Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)
No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$24,750
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Screening Date 16-Nov-2009

Docket No. 2009-1924-MWD-E

PCW

Respondent City of Hempstead

Policy Revision 2 (September 2002)

Case ID No. 38760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920692

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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) 125%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes The penalty is enhanced due to 15 self-reported monthly effluent violations, one NOV with similar violations to those cited in this action, one final agreed order containing a denial of liability, and one final agreed order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 125%

Screening Date 16-Nov-2009

Docket No. 2009-1924-MWD-E

PCW

Respondent City of Hempstead

Policy Revision 2 (September 2002)

Case ID No. 38760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920692

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010948001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on October 29, 2009 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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. Dissolved oxygen and pH were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which exceed levels protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 Number of violation days 61

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

Violation Base Penalty \$10,000

Two monthly events are recommended for the months of June 30, 2009 and July 31, 2009.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NCV to EDRP/Settlement Offer \$0

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes

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

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$437

Violation Final Penalty Total \$22,500

This violation Final Assessed Penalty (adjusted for limits) \$22,500

Economic Benefit Worksheet

Respondent City of Hempstead
Case ID No. 38760
Reg. Ent. Reference No. RN101920692
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	31-May-2009	30-Aug-2010	1.25	\$21	\$416	\$437
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 determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$437

Screening Date 16-Nov-2009

Docket No. 2009-1924-MWD-E

PCW

Respondent City of Hempstead

Policy Revision 2 (September 2002)

Case ID No. 38760

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101920892

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010948001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on October 29, 2009 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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 this discharge, 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 \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 31

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

Violation Base Penalty \$1,000

One quarterly event is recommended for the quarter containing the month of May 2009.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent City of Hempstead
Case ID No. 38760
Reg. Ent. Reference No. RN101920692
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

See the economic benefit for violation number one.

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

\$0

TOTAL

\$0

EFFLUENT VIOLATION TABLE					
City of Hempstead					
TPDES Permit No. WQ0010948001					
Docket No. 2009-19924-MWD-E					
Months	Ammonia-Nitrogen Daily Avg. Conc.	Ammonia-Nitrogen Daily Max. Conc.	Ammonia-Nitrogen Daily Avg. Loading	Dissolved Oxygen Min. Conc.	pH
	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 15 lbs/day	min. = 4.0	min. = 6.0 SU
5/31/2009	10.55	15.70	31.99	c	c
6/30/2009	18.58	22.30	44.72	1.44	5.82
7/31/2009	16.01	21.10	48.31	c	c

conc. = concentration
 lbs/day = pounds per day
 mg/L = milligrams per liter
 min. = minimum

avg. = average
 c = compliant
 SU = standard units

Compliance History Report

Customer/Respondent/Owner-Operator: CN600244040 City of Hempstead Classification: AVERAGE Rating: 3.87
Regulated Entity: RN101920692 CITY OF HEMPSTEAD Classification: AVERAGE Site Rating: 5.60
ID Number(s): WASTEWATER PERMIT WQ0010948001
WASTEWATER PERMIT TPDES0023809
WASTEWATER PERMIT TX0023809
WASTEWATER LICENSING LICENSE WQ0010948001
Location: at the intersection of 23rd Street and Hamilton Street,
approximately 1.5 miles southwest of the intersection of United
States Highway 290 and State Highway 6 and 159 in Waller
County, Texas.
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: November 24, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 23, 2004 to November 23, 2009

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

Name: Steve Villatoro Phone: 512-239-4930

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.

Effective Date: 09/21/2006 ADMINORDER 2004-0371-MWD-E
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Rqmt Prov: II.1 ORDER
Description: Failure to prevent the unauthorized discharge of untreated or partially treated wastewater from the wastewater treatment plant.

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Rqmt Prov: II.3 ORDER
Description: Failure to submit a noncompliance notification within twenty four hours by phone or fax and/or a written notification within five working days for the unauthorized discharge of wastewater from the wastewater treatment plant for the unauthorized discharges that occurred on September 2, 2003.

Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: II.4 ORDER
Description: Failure to maintain compliance with the permit effluent limits for carbonaceous biochemical oxygen demand (CBOD), total suspended solids (TSS) and ammonia nitrogen (NH3-N).

Effective Date: 04/05/2009 ADMINORDER 2008-0999-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov: E
Description: Failure to submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	12/16/2004	(382850)
2	01/17/2005	(382851)
3	02/14/2005	(420653)
4	03/18/2005	(382848)
5	04/15/2005	(420654)
6	05/18/2005	(420655)
7	06/14/2005	(395551)
8	06/24/2005	(420656)
9	07/14/2005	(441656)
10	09/15/2005	(441658)
11	09/22/2005	(441657)
12	10/26/2005	(470098)
13	11/23/2005	(470099)
14	12/21/2005	(470100)
15	01/25/2006	(470101)
16	02/17/2006	(470096)
17	03/20/2006	(470097)
18	04/19/2006	(499255)
19	05/26/2006	(499256)
20	06/22/2006	(499257)
21	07/20/2006	(521294)
22	09/05/2006	(521295)
23	09/18/2006	(521296)
24	10/24/2006	(545818)
25	11/20/2006	(545819)
26	01/22/2007	(577669)
27	02/23/2007	(577663)
28	02/23/2007	(577668)
29	03/28/2007	(577664)
30	04/20/2007	(577665)
31	05/08/2007	(543913)
32	06/11/2007	(563725)
33	06/12/2007	(577666)
34	06/26/2007	(577667)
35	07/20/2007	(602254)
36	09/14/2007	(602255)
37	10/25/2007	(620435)
38	11/30/2007	(672713)
39	12/27/2007	(620436)
40	03/26/2008	(672711)
41	03/26/2008	(672712)
42	03/26/2008	(672714)
43	04/30/2008	(690731)
44	05/22/2008	(690732)
45	05/29/2008	(658954)
46	06/11/2008	(682170)
47	06/11/2008	(690733)
48	06/16/2008	(711586)
49	07/22/2008	(558982)
50	07/22/2008	(711587)
51	08/22/2008	(711588)
52	09/16/2008	(711589)
53	10/17/2008	(711590)
54	11/17/2008	(728098)
55	12/19/2008	(728099)
56	01/28/2009	(751025)
57	02/24/2009	(751023)
58	03/09/2009	(751024)
59	03/23/2009	(768925)
60	04/20/2009	(768926)
61	05/15/2009	(768927)
62	07/29/2009	(746201)
63	11/13/2009	(780716)

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

Date: 02/28/2005 (382848) CN600244040
 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 (577863) CN600244040
 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: 02/28/2007 (577864) CN600244040
 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 (577865) CN600244040
 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: 05/07/2007 (543913) CN600244040
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.6(b)(3)
 Description: Failure to properly operate and maintain the chlorine contact basins.
 Self Report? NO Classification: Moderate
 Citation: TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(1)
 TWC Chapter 26 26.121(a)(2)
 Description: Failure to prevent the unauthorized discharge of untreated or partially treated wastewater
 from the wastewater treatment plant.
 Date: 08/31/2007 (890733) CN600244040
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2007 (820435) CN600244040
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2007 (872713) CN600244040
 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 (690731) CN600244040
 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: 07/31/2008 (711688) CN600244040
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2008 (711589) CN600244040
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2008 (728098) CN600244040
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 (768927) CN600244040
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 CN600244040
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 CN600244040
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 28, SubChapter A 28.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2009 CN600244040
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 HEMPSTEAD
RN101920692**

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

AGREED ORDER DOCKET NO. 2009-1924-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Hempstead ("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 presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment plant located at the intersection of 23rd Street and Hamilton Street, approximately 1.5 miles southwest of the intersection of United States Highway 290 and State Highways 6 and 159 in Waller 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. During a record review on October 29, 2009, TCEQ staff documented the following effluent data from the Facility's self-reported discharge monitoring reports ("DMR"):

EFFLUENT VIOLATION TABLE					
Months	Ammonia-Nitrogen Daily Avg. Conc.	Ammonia-Nitrogen Daily Max. Conc.	Ammonia-Nitrogen Daily Avg. Loading	Dissolved Oxygen Min. Conc.	pH
	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 16 lbs/day	min. = 4.0	min. = 6.0 SU
5/31/2009	10.55	15.70	31.99	c	c
6/30/2009	18.58	22.30	44.72	1.44	5.82
7/31/2009	16.01	21.10	48.31	c	c

conc. = concentration
lbs/day = pounds per day
mg/L = milligrams per liter
min. = minimum
avg. = average
c = compliant
SU = standard units

4. The City received notice of the violations on November 16, 2009.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010948001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Twenty-Four Thousand Seven Hundred Fifty Dollars (\$24,750) is justified by the facts recited in this Agreed Order, and considered in light of the

factors set forth in TEX. WATER CODE § 7.053. The City has paid the Twenty-Four Thousand Seven Hundred Fifty Dollar (\$24,750) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Twenty-Four Thousand Seven Hundred Fifty Dollars (\$24,750) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hempstead, Docket No. 2009-1924-MWD-E" to:

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

2. It is further ordered that, within 90 days after the effective date of this Agreed Order, the City shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010948001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/30/2010
Date

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

I understand that by entering into this Agreed Order, the City of Hempstead waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

February 22, 2010
Date

Michael S. Wolfe, Sr.
Name (Printed or typed)
Authorized Representative of
City of Hempstead

Mayor
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.