

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0043-MWD-E **TCEQ ID:** RN101916278 **CASE NO.:** 39001

RESPONDENT NAME: City of Premont

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

SITE WHERE VIOLATION(S) OCCURRED: City of Premont, located on County Road 418, approximately 1.9 miles south and 1.5 miles east of the intersection of Farm-to-Market Road 716 and United States Highway 281, Jim Wells County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint was received on October 21, 2009, alleging a discharge of wastewater into a ditch then to a culvert that drains into a pond due to a clogged sewer line. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 17, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495

Respondent: The Honorable Norma Tullos, Mayor, City of Premont, P.O. Box 340, Premont, Texas 78375

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: October 21, 2009</p> <p>Date of Investigation Relating to this Case: November 3, 2009</p> <p>Date of NOV/NOE Relating to this Case: December 14, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failure to obtain soil samples from the land application area within the required time frame. Specifically, sampling and analysis is required in February to April of each year, but samples were not collected from the land application area until August 25, 2009 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010253001, Special Provisions No. 11].</p> <p>2) Failure to timely submit the annual soil sample analysis results to the TCEQ Corpus Christi Regional Office and the Enforcement Division by September 2008. Specifically, the sample results were not received by TCEQ until February 10, 2010 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010253001, Special Provisions No. 11].</p> <p>3) Failure to prevent the unauthorized discharge of wastewater. Specifically, approximately 400 gallons of wastewater overflowed from a cleanout at a residence located on the corner of West Main Street and South Cora Street into the alley between West Main Street and Southwest 1st Street, thence to a ditch running along South Cora Street due to a blockage in the main line [TEX. WATER CODE § 26.121(a)(1) and TCEQ Permit No. WQ0010253001, Permit Conditions 2.g].</p>	<p>Total Assessed: \$2,955</p> <p>Total Deferred: \$591 <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: \$2,364</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By October 21, 2009, stopped and vacuumed up the unauthorized discharge and removed the blockage from the main line;</p> <p>b. On January 11, 2010, submitted the noncompliance notification for the unauthorized discharge that occurred on October 3, 2009; and</p> <p>c. By January 28, 2010, completed mowing and maintenance work on aeration lagoon and stabilization ponds.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that sampling and reporting requirements are properly accomplished, including the annual soil sampling and reporting as well as any unauthorized discharge notifications; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

<p>4) Failure to report an unauthorized discharge orally or by facsimile transmission to the TCEQ Corpus Christi Regional Office within 24 hours and provide written notification within five working days of becoming aware of the noncompliance. Specifically, an unauthorized discharge occurred on October 3, 2009 and a noncompliance notification was not submitted until January 11, 2010 [30 TEX. ADMIN. CODE § 305.125(9) and TCEQ Permit No. WQ0010253001, Monitoring Requirements No. 7].</p> <p>5) Failure to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal. Specifically, excessive vegetation was observed in the older aeration lagoon and the two older stabilization ponds [30 TEX. ADMIN. CODE § 305.125(5) and TCEQ Permit No. WQ0010253001, Operational Requirements No. 1].</p>		
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Additional ID No(s): WQ0010253001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	21-Dec-2009	Screening	3-Jan-2010	EPA Due	
	PCW	7-Jan-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Premont		
Reg. Ent. Ref. No.	RN101916278		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39001	No. of Violations	5
Docket No.	2010-0043-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merrilee Hupp
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 3-Jan-2010

Docket No. 2010-0043-MWD-E

PCW

Respondent City of Premont

Policy Revision 2 (September 2002)

Case ID No. 39001

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916278

Media [Statute] Water Quality

Enf. Coordinator: Merrilee Hupp

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
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 judgments 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) 5%

>> 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 Respondent received one NOV for same or similar violations as those in current case.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 3-Jan-2010

Docket No. 2010-0043-MWD-E

PCW

Respondent City of Premont

Policy Revision 2 (September 2002)

Case ID No. 39001

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916278

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010253001, Special Provisions No. 11

Violation Description Failed to obtain soil samples from the land application area within the required timeframe. Specifically, sampling and analysis is required in February to April of each year, but samples were not collected from the land application area until August 25, 2009, as documented during the November 3, 2009 Investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 117

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$500

One single event is recommended based on the November 3, 2009 investigation date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$99

Violation Final Penalty Total \$525

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

Economic Benefit Worksheet

Respondent City of Premont
Case ID No. 39001
Reg. Ent. Reference No. RN101916278
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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,400	30-Apr-2009	30-Sep-2010	1.42	\$99	n/a	\$99
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of annual soil sampling (\$150), soil analysis (actual cost being \$1,000 for three soil samples), and costs to update the Facility's operational guidance and conduct training (\$250) to ensure sample results are taken as required. Date required is the last possible date for soil samples to be taken in compliance with the permit and final date is when training is expected to be completed and compliance is expected to be achieved.

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

\$1,400

TOTAL

\$99

Screening Date 3-Jan-2010

Docket No. 2010-0043-MWD-E

PCW

Respondent City of Premont

Policy Revision 2 (September 2002)

Case ID No. 39001

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101916278

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010253001, Special Provisions No. 11

Violation Description

Failed to timely submit the annual soil sample analysis results to the TCEQ Corpus Christi Regional Office and the Enforcement Division by September 2008, as documented during the November 3, 2009 investigation. Specifically, sample results were not received by TCEQ until February 10, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

Over 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 460

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

Violation Base Penalty \$100

One single event is recommended based on the November 3, 2009 investigation date.

Good Faith Efforts to Comply

	0.0%	Reduction	
	Before NOV	NOV to EOPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

Economic Benefit Worksheet

Respondent City of Prement
Case ID No. 39001
Reg. Ent. Reference No. RN101916278
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				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)	\$50	30-Sep-2008	10-Feb-2010	1.36	\$3	n/a	\$3

Notes for DELAYED costs
 Estimated costs to submit annual soil sample results to TCEQ. Remaining economic benefit is covered by the economic benefit in Violation No. 1 for costs to update the Facility's operational guidance and conduct training. Date required is the due date for the submittal of the annual soil sampling results and final date is when the results were received by TCEQ.

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

\$50

TOTAL

\$3

Screening Date 3-Jan-2010

Docket No. 2010-0043-MWD-E

PCW

Respondent City of Premont

Policy Revision 2 (September 2002)

Case ID No. 39001

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916278

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and TCEQ Permit No. WQ0010253001, Permit Conditions 2.g

Violation Description

Failed to prevent the unauthorized discharge of wastewater, as documented during an investigation conducted on November 3, 2009. Specifically, approximately 400 gallons of wastewater overflowed from a cleanout at a residence located on the corner of W. Main Street and S. Cora Street into the alley between W. Main Street and SW 1st Street, thence to a ditch running along S. Cora Street due to blockage in the main line and infiltration.

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

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 18

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 from the beginning date of the unauthorized discharge, October 3, 2009, to the date the discharge was cleaned up, October 21, 2009.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EDCRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

\$250

Notes The Respondent achieved compliance by October 21, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$800

This violation Final Assessed Penalty (adjusted for limits) \$800

Economic Benefit Worksheet

Respondent City of Premont
Case ID No. 39001
Reg. Ent. Reference No. RN101916278
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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	\$5,000	3-Oct-2009	21-Oct-2009	0.05	\$12	n/a	\$12
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for cleanup of unauthorized discharge from the cleanout and to clear blockage in the main line. Date required is the beginning date of the unauthorized discharge and final date is when the unauthorized discharge had ceased and been vacuumed up.

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

\$12

Screening Date 3-Jan-2010

Docket No. 2010-0043-MWD-E

PCW

Respondent City of Premont

Policy Revision 2 (September 2002)

Case ID No. 39001

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101916278

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(9) and TCEQ Permit No. WQ0010253001, Monitoring Requirements No. 7

Violation Description

Failed to report an unauthorized discharge orally or by facsimile transmission to the TCEQ Corpus Christi Regional Office within 24 hours and provide written notification within five working days of becoming aware of the noncompliance. Specifically, an unauthorized discharge occurred on October 3, 2009 and noncompliance notification was not submitted until January 11, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100 percent of the requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 95

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

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 \$13

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent City of Premont
Case ID No. 39001
Reg. Ent. Reference No. RN101916278
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	4-Oct-2009	30-Sep-2010	0.98	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	8-Oct-2009	11-Jan-2010	0.26	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost for completion and submittal of a noncompliance report for an unauthorized discharge (\$25) and costs to update the Facility's operational guidance and conduct training to ensure unauthorized discharges are reported to the TCEQ as required. Date required is due date of the initial (10/4/09) and written (10/8/09) noncompliance notifications. Final date is when the written notice was received by TCEQ by facsimile (1/11/2010) and expected date of compliance (9/30/10).

Avoided Costs

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

	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

\$275

TOTAL

\$13

Screening Date 3-Jan-2010

Docket No. 2010-0043-MWD-E

PCW

Respondent City of Fremont

Policy Revision 2 (September 2002)

Case ID No. 39001

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916278

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and TCEQ Permit No. WQ0010253001, Operational Requirements No. 1

Violation Description Failed to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal. Specifically, excessive vegetation was observed in the older aeration lagoon and the two older stabilization ponds, as documented during the November 3, 2009 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			X	

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				0%

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 61

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

Violation Base Penalty \$500

One single event is recommended based upon the November 3, 2009 investigation date.

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

\$50

Notes Mowing and maintenance work on the aeration lagoon and ponds was completed by January 28, 2010.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$475

This violation Final Assessed Penalty (adjusted for limits) \$475

Economic Benefit Worksheet

Respondent City of Premont
Case ID No. 39001
Reg. Ent. Reference No. RN101916278
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
Equipment	\$1,050	3-Nov-2009	28-Jan-2010	0.24	\$1	\$16	\$17
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)	\$1,152	3-Nov-2009	28-Jan-2010	0.24	\$14	n/a	\$14

Notes for DELAYED costs: Actual cost of labor, equipment, and fuel to complete mowing and maintenance work required. Date required is the investigation date and final date is the date compliance was achieved.

Avoided Costs

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

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0
Personnel				0.00	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0
Supplies/equipment				0.00	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$2,202
TOTAL \$31

Compliance History Report

Customer/Respondent/Owner- Operator: CN600660302 City of Premont Classification: AVERAGE Rating: 2.81
Regulated Entity: RN101916278 CITY OF PREMONT Classification: AVERAGE Site Rating: 2.25
ID Number(s): WASTEWATER PERMIT WQ0010253001
WASTEWATER LICENSING LICENSE WQ0010253001
Location: ON COUNTY ROAD 418, APPROXIMATELY 1.9 MI S & 1.5 MI E OF INTERSECTION FM
716 & HWY 281
JIM WELLS COUNTY, TEXAS
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: January 05, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 05, 2005 to January 05, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee Hupp Phone: 512-239 -- 4490

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 04/12/2006 (460404)

2 01/04/2007 (535144)

3 02/26/2008 (534500)

4 12/14/2009 (781454)

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

Date: 04/12/2006 (460404) CN600660302

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 317 317.4(j)(9)

WQ Permit No. 10253-001 PERMIT

Description: The aerated lagoon and two stabilization ponds continue to have cattails and excessive weeds growing on the pond edges.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: The facility has not maintained the primary flow measuring device.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TPDES PERMIT NO. 10253-001 PERMIT

Description: Failure to comply with the effluent limitations as specified in the permit.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(b)(4)

Description: Failure to dispose of screenings in an approved manner.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 309, SubChapter C 309.20(b)(5)(B)

Permit No. 10253-001 PERMIT

Description: Failure to design and manage irrigation practices so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance condition in the area.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Permit No. 10253-001 PERMIT

Description: Failure to have adequate signs erected stating that the irrigation water is from a non-potable water supply.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Permit No. 10235-001 PERMIT

Description: Failure to submit the results of the annual soil sample analyses with copies of the laboratory reports to the TCEQ Corpus Christi Region Office and the Water

Quality and Compliance Monitoring Team of the Enforcement Division, no later than the end of September of each sampling year.

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 PREMONT
RN101916278**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0043-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 Premont ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located on County Road 418, approximately 1.9 miles south and 1.5 miles east of the intersection of Farm-to-Market Road 716 and United States Highway 281 in Jim Wells County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 19, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Nine Hundred Fifty-Five Dollars (\$2,955) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Three Hundred Sixty-Four Dollars

(\$2,364) of the administrative penalty and Five Hundred Ninety-One Dollars (\$591) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 Respondent 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 Respondent has implemented the following corrective measures at the Facility:
 - a. By October 21, 2009, stopped and vacuumed up the unauthorized discharge and removed the blockage from the main line;
 - b. On January 11, 2010, submitted the noncompliance notification for the unauthorized discharge that occurred on October 3, 2009; and
 - c. By January 28, 2010, completed mowing and maintenance work on aeration lagoon and stabilization ponds.
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 Respondent 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 Respondent is alleged to have:

1. Failed to obtain soil samples from the land application area within the required timeframe, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010253001, Special Provisions No. 11, as documented during an investigation conducted on November 3, 2009. Specifically, sampling and analysis is required in February to April of each year, but samples were not collected from the land application area until August 25, 2009.

2. Failed to timely submit the annual soil sample analysis results to the TCEQ Corpus Christi Regional Office and the Enforcement Division by September 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010253001, Special Provisions No. 11, as documented during an investigation conducted on November 3, 2009. Specifically, the sample results were not received by TCEQ until February 10, 2010.
3. Failed to prevent the unauthorized discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a)(1) and TCEQ Permit No. WQ0010253001, Permit Conditions 2.g, as documented during an investigation conducted on November 3, 2009. Specifically, approximately 400 gallons of wastewater overflowed from a cleanout at a residence located on the corner of W. Main Street and S. Cora Street into the alley between W. Main Street and SW 1st Street, thence to a ditch running along S. Cora Street due to a blockage in the main line.
4. Failed to report an unauthorized discharge orally or by facsimile transmission to the TCEQ Corpus Christi Regional Office within 24 hours and provide written notification within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TCEQ Permit No. WQ0010253001, Monitoring Requirements No. 7, as documented during an investigation conducted on November 3, 2009. Specifically, an unauthorized discharge occurred on October 3, 2009 and a noncompliance notification was not submitted until January 11, 2010.
5. Failed to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TCEQ Permit No. WQ0010253001, Operational Requirements No. 1, as documented during an investigation conducted on November 3, 2009. Specifically, excessive vegetation was observed in the older aeration lagoon and the two older stabilization ponds.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 Premont, Docket No. 2010-0043-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that sampling and reporting requirements are properly accomplished, including the annual soil sampling and reporting as well as any unauthorized discharge notifications, in accordance with TCEQ Permit No. WQ0010253001, Monitoring Requirements No. 7 and Special Provisions No. 11; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John Jordan
For the Executive Director

5/3/2010
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.

Norma Tellos
Signature

March 3, 2010
Date

Norma Tellos
Name (Printed or typed)
Authorized Representative of
City of Premont

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.