

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-0109-MWD-E **TCEQ ID:** RN101610574 **CASE NO.:** 39024

**RESPONDENT NAME:** City of Canton

<b>ORDER TYPE:</b>		
<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"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Caney Mill Creek Plant - Canton, located approximately 4,000 feet northeast of the intersection of Interstate Highway 20 and State Highway 19 and approximately 5,000 feet northwest of the intersection of Interstate Highway 20 and Farm-to-Market Road 17, Van Zandt County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 17, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Carlie Konkol, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0735; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Andy McCuiston, City Manager, City of Canton, P.O. Box 245, Canton, Texas 75103  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 14, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 15, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with permitted effluent limitations for total suspended solids, dissolved oxygen, ammonia nitrogen, and carbonaceous biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System Permit No. WQ0010399002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>	<p><b>Total Assessed:</b> \$6,850</p> <p><b>Total Deferred:</b> \$1,370  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$5,480</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By July 31, 2009, repaired a clarifier and the aeration basin's rotors; and</p> <p>b. By August 31, 2009, returned to compliance with permitted effluent limits.</p>

Additional ID No(s): WQ0010399002



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

## TCEQ

<b>DATES</b>	Assigned	19-Jan-2010	Screening	20-Jan-2010	EPA Due	5-Mar-2010
	PCW	21-Jan-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Canton
Reg. Ent. Ref. No.	RN101610574
Facility/Site Region	5-Tyler
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39024	No. of Violations	1
Docket No.	2010-0109-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Charlie Konkol
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: An enhancement is recommended for ten monthly self-reported effluent violations, two NOV's with violations same or similar to this case and one NOV for violations unrelated to this case.

**Culpability**   Enhancement **Subtotal 4**

Notes: The City does not meet the culpability criteria.

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$466
Approx. Cost of Compliance	\$10,000

\*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 20-Jan-2010

Docket No. 2010-0109-MWD-E

PCW

Respondent City of Canton

Policy Revision 2 (September 2002)

Case ID No. 39024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610574

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	12	60%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended for ten monthly self-reported effluent violations, two NOVs with violations same or similar to this case and one NOV for violations unrelated to this case.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 20-Jan-2010

Docket No. 2010-0109-MWD-E

PCW

Respondent City of Canton

Policy Revision 2 (September 2002)

Case ID No. 39024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610574

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System Permit No. WQ0010399002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review on December 14, 2009, and shown in the attached Effluent Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm		
	Release	Major	Moderate	Minor
OR	Actual			X
	Potential			

Percent 25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 120

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 Before NOV NOV to EDPRP/Settlement Offer

\$1,250

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The City returned to compliance by August 31, 2009.

Violation Subtotal \$9,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$466

Violation Final Penalty Total \$6,850

This violation Final Assessed Penalty (adjusted for limits) \$6,850

# Economic Benefit Worksheet

**Respondent** City of Canton  
**Case ID No.** 39024  
**Reg. Ent. Reference No.** RN101610574  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	31-Dec-2008	31-Aug-2009	0.67	\$22	\$444	\$466
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 repair a clarifier and the aeration basin's rotors. The Date Required is the first date of noncompliance. The Final Date is the date of compliance with permitted effluent limitations.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
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 \$10,000
TOTAL \$466

City of Canton  
Docket No. 2010-0109-MWD-E  
TPDES Permit No. WQ0010399002

Effluent Table				
Permit Effluent Limits	Monitoring Periods			
	December 2008	February 2009	June 2009	July 2009
Total Suspended Solids Daily Average Conc. 15.0 mg/L	18.3	C	24.3	17.5
Total Suspended Solids Daily Maximum Conc. 40.0 mg/L	51.1	C	63.2	64.8
Dissolved Oxygen Minimum Conc. 4.0 mg/L	C	C	C	3.99
Ammonia Nitrogen Daily Average Conc. 3.0 mg/L	C	C	5.9	6.2
Ammonia Nitrogen Daily Maximum Conc. 10.0 mg/L	C	C	18.3	24.7
5-day CBOD Daily Average Conc. 10 mg/L	C	22.1	10.4	C
5-day CBOD Daily Maximum Conc. 25 mg/L	C	48.9	C	C
5-day CBOD Daily Average Loading 108 lbs/day	C	160.3	C	C

Conc. – Concentration      lbs/day – Pounds Per Day  
mg/L – Milligrams Per Liter  
CBOD - Carbonaceous Biochemical Oxygen Demand



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN800736086	City of Canton	Classification: AVERAGE	Rating: 2.51
Regulated Entity:	RN101610574	CANEY MILL CREEK PLANT CANTON	Classification: AVERAGE	Site Rating: 0.52

ID Number(s):	WASTEWATER	PERMIT	WQ0010399002
	WASTEWATER	PERMIT	TPDES0099112
	WASTEWATER	PERMIT	TX0099112
	WASTEWATER	PERMIT	TX0070025000
	WASTEWATER LICENSING	LICENSE	WQ0010399002

Location: LOCATED APPROXIMATELY 4,000 FEET NORTHEAST OF THE INTERSECTION OF INTERSTATE HIGHWAY 20 AND STATE HIGHWAY 19 AND APPROXIMATELY 5,000 FEET NORTHWEST OF THE INTERSECTION OF INTERSTATE HIGHWAY 20 AND FARM-TO-MARKET ROAD 17 IN VAN ZANDT COUNTY, TEXAS

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: January 20, 2010  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: January 20, 2005 to January 20, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Carlie Konkol Phone: (512) 239-0735

### 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |
| 6. Rating Date: 9/1/2009 Repeat Violator: NO   |     |

### Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	02/11/2005	(388151)
2	03/11/2005	(388152)
3	04/11/2005	(388153)
4	05/10/2005	(425739)
5	06/07/2005	(425740)
6	07/12/2005	(446249)
7	08/15/2005	(446250)
8	09/12/2005	(446251)
9	10/14/2005	(446252)
10	10/21/2005	(434636)
11	11/10/2005	(478619)
12	12/19/2005	(478620)
13	01/09/2006	(451277)
14	01/24/2006	(478621)
15	02/07/2006	(478617)
16	03/15/2006	(478618)
17	04/27/2006	(504729)
18	05/30/2006	(504730)
19	06/23/2006	(504731)

20	07/18/2006	(504732)
21	08/08/2006	(531055)
22	08/25/2006	(527042)
23	09/15/2006	(527043)
24	11/14/2006	(587379)
25	11/21/2006	(531376)
26	12/04/2006	(587380)
27	12/27/2006	(587381)
28	01/29/2007	(587382)
29	02/26/2007	(587374)
30	03/26/2007	(587375)
31	04/25/2007	(587376)
32	05/29/2007	(587377)
33	06/19/2007	(564515)
34	06/25/2007	(587378)
35	07/26/2007	(605003)
36	08/28/2007	(605004)
37	10/02/2007	(627623)
38	10/05/2007	(627622)
39	10/16/2007	(597637)
40	11/30/2007	(627624)
41	12/27/2007	(676191)
42	01/22/2008	(676192)
43	01/31/2008	(676186)
44	02/15/2008	(676187)
45	03/24/2008	(676189)
46	03/24/2008	(676190)
47	03/25/2008	(676188)
48	05/22/2008	(657234)
49	05/22/2008	(694553)
50	06/20/2008	(715994)
51	08/20/2008	(715995)
52	09/23/2008	(715996)
53	10/22/2008	(731594)
54	11/24/2008	(731595)
55	12/18/2008	(731596)
56	12/22/2008	(731597)
57	03/03/2009	(754954)
58	03/23/2009	(754955)
59	03/30/2009	(754956)
60	03/30/2009	(754957)
61	01/19/2010	(785644)

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

Date: 05/31/2005 (425740) CN600736086  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (504731) CN600736086  
 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: 08/08/2006 (531055) CN600736086  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 09/30/2007 (627623) CN600736086  
 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: 10/27/2007 (597637) CN600736086  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 PERMIT CONDITIONS 2(g) PERMIT  
 Description: Failure to prevent the unauthorized discharge of municipal waste into or adjacent to any water in the state. Specifically, a discharge of approximately 150 gallons of sewage was discharged from the Billy Street Lift Station due to a crack force maintain at a low flow lift station.

Date: 11/30/2007 (676191) CN600736086  
 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 (676189) CN600736086  
 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: 05/22/2008 (657234) CN600736086  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 Description: Failure to prevent unauthorized discharge of sewage to the waters of the state. At the time of the investigation, it was found that a sewage overflow had occurred from a city manhole.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
 Description: Failure to submit a WW Bypass Report on time.

Date: 10/31/2008 (731595) CN600736086  
 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: 12/31/2008 (731597) CN600736086  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2009 (754955) CN600736086  
 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 CN600736086  
 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: 07/31/2009

CN600736086

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 CANTON  
RN101610574

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2010-0109-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 Canton ("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 4,000 feet northeast of the intersection of Interstate Highway 20 and State Highway 19 and approximately 5,000 feet northwest of the intersection of Interstate Highway 20 and Farm-to-Market Road 17 in Van Zandt 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 January 20, 2010.
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 Eight Hundred Fifty Dollars (\$6,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The City has paid Five Thousand Four Hundred Eighty Dollars (\$5,480) of the administrative penalty and One Thousand Three Hundred Seventy Dollars (\$1,370) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
  - a. By July 31, 2009, repaired a clarifier and the aeration basin's rotors; and
  - b. By August 31, 2009, returned to compliance with permitted effluent limits.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System Permit No. WQ0010399002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on December 14, 2009 and depicted in the table below:

Effluent Table				
Permit Effluent Limits	Monitoring Periods			
	December 2008	February 2009	June 2009	July 2009
Total Suspended Solids Daily Average Conc. 15.0 mg/L	18.3	C	24.3	17.5
Total Suspended Solids Daily Maximum Conc. 40.0 mg/L	51.1	C	63.2	64.8
Dissolved Oxygen Minimum Conc. 4.0 mg/L	C	C	C	3.99
Ammonia Nitrogen Daily Average Conc. 3.0 mg/L	C	C	5.9	6.2
Ammonia Nitrogen Daily Maximum Conc. 10.0 mg/L	C	C	18.3	24.7
5-day CBOD Daily Average Conc. 10 mg/L	C	22.1	10.4	C
5-day CBOD Daily Maximum Conc. 25 mg/L	C	48.9	C	C
5-day CBOD Daily Average Loading 108 lbs/day	C	160.3	C	C

Conc. - Concentration      lbs/day - Pounds Per Day  
Max. - Maximum            mg/L - Milligrams Per Liter  
CBOD - Carbonaceous Biochemical Oxygen Demand

### 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 Canton, Docket No. 2010-0109-MWD-E" to:  
  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 4/23/2010

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 3-4-10

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Canton

\_\_\_\_\_  
Title City Manager

**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.

