

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0163-MWD-E **TCEQ ID:** RN101918076 **CASE NO.:** 39106
RESPONDENT NAME: City of Mexia

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Mexia, located approximately 0.5 mile south of the intersection of Travis Street and Bonham Street and approximately 1.25 miles southeast of the intersection of State Highway 14 and Farm-to-Market Road 39, Limestone County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 28, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Larry D. Brown, City Manager, City of Mexia, P.O. Box 207, Mexia, Texas 76667 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: December 30, 2009</p> <p>Date of NOV/NOE Relating to this Case: January 21, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for flow and ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010222001 Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$6,850</p> <p>Total Deferred: \$1,370 <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: \$5,480</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that as of August 31, 2009, the Respondent has repaired, replaced, and reworked the aerators and returned to compliance with the permit limits.</p>

Additional ID No(s): WQ0010222001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned 25-Jan-2010	PCW 4-Feb-2010	Screening 3-Feb-2010	EPA Due 3-May-2010
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RESPONDENT/FACILITY INFORMATION	
Respondent	City of Mexia
Reg. Ent. Ref. No.	RN101918076
Facility/Site Region	9-Waco
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39106	No. of Violations	1
Docket No.	2010-0163-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		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** **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 62.0% Enhancement **Subtotals 2, 3, & 7** **\$3,100**

Notes
An enhancement is recommended due to seven self-reported months of effluent violations, one non-similar NOV, one NOV for same or similar violations and one Agreed Order containing denial of liability language.

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

Notes
The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts **\$1,829**
Approx. Cost of Compliance **\$77,520**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,850**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$6,850**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,850**

DEFERRAL 20.0% Reduction **Adjustment** **-\$1,370**

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 **\$5,480**

Screening Date 3-Feb-2010

Docket No. 2010-0163-MWD-E

PCW

Respondent City of Mexia

Policy Revision 2 (September 2002)

Case ID No. 39106

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918076

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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)	8	40%
	Other written NOVs	1	2%
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	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) 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 due to seven self-reported months of effluent violations, one non-similar NOV, one NOV for same or similar violations and one Agreed Order containing denial of liability language.

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

Screening Date: 3-Feb-2010

Docket No.: 2010-0163-MWD-E

PCW

Respondent: City of Mexia

Policy Revision 2 (September 2002)

Case ID No.: 39106

PCW Revision October 30, 2009

Reg. Ent. Reference No.: RN101918076

Media [Statute]: Water Quality

Enf. Coordinator: Harvey Wilson

Violation Number: 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010222001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits as depicted in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	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. Flow was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

91 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent returned to compliance August 31 2009.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,829

Violation Final Penalty Total \$6,850

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

Economic Benefit Worksheet

Respondent City of Mexia
Case ID No. 39106
Reg. Ent. Reference No. RN101918076
Media Water Quality
Violation No. 1

Percent Interest:	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$77,520	30-Apr-2009	31-Aug-2009	0.34	\$87	\$1,742	\$1,829
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

The actual cost of repairing the aerators. Date Required was the date of the first month of non-compliance. Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$77,520

TOTAL

\$1,829

City of Mexia
Docket No. 2010-0163-MWD-E
RN101918076; WQ0010222001
Violation Table

	Flow, Two hour Peak, maximum 5,556 gal/m	Ammonia Nitrogen Daily Average Concentration 3 mg/L	Ammonia Nitrogen Daily Maximum Concentration 10 mg/L	Ammonia Nitrogen Daily Average Loading 50 lbs/d
April 2009	6,423.7	C	C	C
June 2009	C	4.29	C	C
July 2009	C	11.97	18.7	57.88
gal/m = gallon per minute mg/L = milligrams per liter lbs/d = pounds per day C = compliant				

Compliance History Report

Customer/Respondent/Owner-Operator: CN600510218 City of Mexia Classification: AVERAGE Rating: 2.82
Regulated Entity: RN101918076 CITY OF MEXIA Classification: AVERAGE Site Rating: 2.27
ID Number(s): WASTEWATER PERMIT WQ0010222001
WASTEWATER PERMIT TPDES0052990
WASTEWATER PERMIT TX0052990
WASTEWATER LICENSING LICENSE WQ0010222001
Location: approximately 0.5 mile south of the intersection of Travis Street and Bonham Street and approximately 1.25 miles southeast of the intersection of State Highway 14 and Farm-to-Market Road 39 in Limestone County, Texas
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: February 03, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 03, 2005 to January 03, 2010

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

Name: Harvey Wilson Phone: 239 - 0321

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: 02/08/2008

ADMINORDER 2007-0520-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Provisions, Section II. F Pg.22 PERMIT

Description: Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2005

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(b)(4)

Rqmt Prov: Operational Requirements, No. 1 Pg. 9 PERMIT

Description: Failed to at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions. Specifically, influent bar screenings were being disposed of in an uncovered dumpster and process control testing revealed exceedances of recommended ranges.

Classification: Minor

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

Rqmt Prov: Monitor/Report Requirements Pg. 4, No. 2 PERMIT

Description: Failed to calibrate the thermometer in the storage refrigerator against a National Institute of Standards and Technology certified thermometer on an annual basis

Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(a)

Rqmt Prov: Operational Requirements No. 1, Pg. 9 PERMIT

Description: Failed to have controlled access to three lift stations. Specifically, the Hinchcliff, Forest Glad, and Sewer Plant lift stations were not protected by intruder-resistant fences.

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	01/24/2005	{384319}
2	02/18/2005	{384316}
3	02/18/2005	{384317}
4	03/16/2005	{472885}
5	03/18/2005	{422253}
6	04/22/2005	{422254}
7	05/19/2005	{422255}
8	05/19/2005	{422257}
9	06/22/2005	{422256}
10	08/18/2005	{443173}
11	08/30/2005	{403437}
12	09/22/2005	{443174}
13	10/25/2005	{472886}
14	12/21/2005	{472887}
15	12/21/2005	{472888}
16	01/25/2006	{472889}
17	02/22/2006	{472884}
18	03/10/2006	{454775}
19	04/21/2006	{501212}
20	04/21/2006	{501215}
21	05/24/2006	{501213}
22	06/22/2006	{501214}
23	08/21/2006	{523446}
24	09/21/2006	{548339}
25	10/23/2006	{548340}
26	11/16/2006	{519370}
27	11/21/2006	{548341}
28	12/14/2006	{531340}
29	12/22/2006	{548342}
30	01/22/2007	{548343}
31	02/21/2007	{540255}
32	02/22/2007	{581423}
33	03/21/2007	{581424}
34	04/20/2007	{581425}
35	05/18/2007	{581426}
36	06/25/2007	{581427}
37	07/19/2007	{603255}
38	08/20/2007	{603256}
39	09/20/2007	{621698}

40 10/24/2007 (621699)
 41 10/30/2007 (571359)
 42 11/26/2007 (621700)
 43 12/20/2007 (621701)
 44 01/17/2008 (673646)
 45 02/21/2008 (673645)
 46 03/13/2008 (637498)
 47 03/20/2008 (691900)
 48 04/17/2008 (691901)
 49 05/19/2008 (691902)
 50 06/13/2008 (712910)
 51 07/14/2008 (712911)
 52 08/20/2008 (712912)
 53 09/02/2008 (701517)
 54 09/19/2008 (712913)
 55 10/10/2008 (729122)
 56 11/19/2008 (729123)
 57 12/19/2008 (729124)
 58 01/15/2009 (752287)
 59 02/18/2009 (752286)
 60 03/18/2009 (769952)
 61 04/20/2009 (769953)
 62 10/29/2009 (777786)

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

Date: 01/31/2005 (384317) CN600510218

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: 02/28/2005 (422253) CN600510218

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: 08/24/2005 (403437) CN600510218

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to properly close an abandoned clarifier.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to properly preserve the sample media in the wastewater plant's composite sampler.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.1
 Description: Failure to maintain the collection system's liftstations throughout the city.
 Date: 10/31/2005 (472887) CN600510218

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: 11/30/2005 (472888) CN600510218

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/06/2009 (745815) CN600510218
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, No. 2g Pg. 7 PERMIT
Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to
water in the state without authorization from the Commission.
Date: 04/30/2009 (472887) CN600510218
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: 06/30/2009 (472888) CN600510218
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2009 CN600510218
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
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 MEXIA
RN101918076**

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§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0163-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 Mexia ("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 domestic wastewater treatment facility located approximately 0.5 mile south of the intersection of Travis Street and Bonham Street and approximately 1.25 miles southeast of the intersection of State Highway 14 and Farm-to-Market Road 39 in Limestone 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 January 26, 2010.
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 Six Thousand Eight Hundred Fifty Dollars (\$6,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent 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 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 as of August 31, 2009, the Respondent has repaired, replaced, and reworked the aerators and returned to compliance with the permit 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 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 failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010222001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on December 30, 2009, and depicted in the table below:

Violation Table

	Flow, Two hour Peak, maximum 5,556 gal/m	Ammonia Nitrogen Daily Average Concentration 3 mg/L	Ammonia Nitrogen Daily Maximum Concentration 10 mg/L	Ammonia Nitrogen Daily Average Loading 50 lbs/d
April 2009	6,423.7	C	C	C
June 2009	C	4.29	C	C
July 2009	C	11.97	18.7	57.88
gal/m = gallon per minute mg/L = milligrams per liter lbs/d = pounds per day C = compliant				

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 Mexia, Docket No. 2010-0163-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 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.
3. 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.
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 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.

No. 2385 P. 2.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Miller
For the Executive Director

6/10/2010
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.

Larry D. Brown
Signature

3/10/2010
Date

LARRY D BROWN
Name (Printed or typed)
Authorized Representative of
City of Mexia

CITY MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Apr. 27. 2010 3:55PM CITY MANAGERS OFFICE