

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 28, 2008</p> <p>Date of NOE Relating to this Case: December 20, 2008</p> <p>Background Facts: The EDPRP was filed on March 24, 2009. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on May 20, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MSW:</p> <ol style="list-style-type: none"> Failed to submit monitoring results at the intervals specified in the permit (DMRs) [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements No. 1]. Failed to submit monitoring results at the intervals specified in the permit (annual sludge reports) [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014123001, Sludge Provisions]. Failed to maintain calibration and maintenance records for the laboratory equipment and the flow meter [30 TEX. ADMIN. CODE § 305.125(11)(B) and TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements No 3]. Failed to monitor the effluent characteristics at the frequency specified in the permit and maintain permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements No 1]. Failed to operate the Facility a minimum of five days per week by a licensed chief operator or an operator holding the required level of license or higher [30 TEX. ADMIN. CODE § 30.350(d) and TPDES Permit No. WQ0014123001, Other Requirements No. 1]. 	<p>Initial Calculated Penalty: \$26,215</p> <p>Total Assessed: \$0</p> <p>Total Deferred: \$26,215</p> <p><input type="checkbox"/> Expedited Order <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$0/\$0</p> <p>Respondent qualifies for a 100% deferral of the administrative penalty under TEX. WATER CODE § 7.034.</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: The Executive Director recognizes that Respondent performed the following corrective actions at the Facility :</p> <ol style="list-style-type: none"> On September 21, 2009, submitted discharge monitoring reports (“DMRs”) for the monitoring periods of January 2008 through September 2008; On September 21, 2009, submitted the Annual Sludge Report for the reporting period ending July 31, 2008; Began maintaining calibration and maintenance records for the laboratory equipment and flow meter in accordance with the TPDES Permit; On May 5, 2009, hired a licensed chief operator to begin operating the Facility a minimum of five days a week; Biochemical oxygen demand (“BOD”) and total suspended solids (“TSS”) parameters are being collected and analyzed by a licensed operator; Flow and chlorine residuals are being monitored by a licensed operator seven times per week and a chlorine residual of at least 1.0 milligrams per liter (“mg/l”) is being maintained, and As of August 31, 2009, all outstanding fees and associated late fees for Account Nos. 23005022 and 90130003 were paid in full. <p>Ordering Provision(s): Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 365 days, provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater Within 380 days, submit written certification demonstrating compliance.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>6. Failed to maintain a chlorine residual of at least 1.0 mg/l [30 Tex. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014123001, Effluent and Monitoring Requirements No. 2].</p> <p>7. Failed to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0014123001, Operational Requirements No. 4].</p> <p>8. Failed to pay the Consolidated Water Quality Fees for Account Nos. 23005022 and 90130003 for fiscal year 2009 and associated late fees [30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Jan-2009			
	PCW	7-Jan-2009	Screening	6-Jan-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Tynan Water Supply Corporation				
Reg. Ent. Ref. No.	RN103051710				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	36978	No. of Violations	8		
Docket No.	2009-0018-MWD-E	Order Type	1660		
Media Program(s)	Water Quality	Government/Non-Profit	Yes		
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.		
		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	\$24,500
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	7.0% Enhancement	Subtotals 2, 3, & 7	\$1,715
---------------------------	------------------	--------------------------------	---------

Notes The Respondent was issued one NOV with the same/similar type of violations and one NOV without the same/similar type of violations.

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	\$0
--	-------------------	-----

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

Total EB Amounts \$17,330
 Approx. Cost of Compliance \$30,650
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$26,215
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	
---	--	-------------------	--

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$26,215

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$26,215
-----------------------------------	-------------------------------	----------

DEFERRAL		Reduction	Adjustment	\$0
-----------------	--	------------------	-------------------	-----

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

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$26,215
------------------------	----------

Screening Date 6-Jan-2009

Docket No. 2009-0018-MWD-E

PCW

Respondent Tynan Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36978

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103051710

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> 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 was issued one NOV with the same/similar type of violations and one NOV without the same/similar type of violations.

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

Screening Date 6-Jan-2009 **Docket No.** 2009-0018-MWD-E **PCW**
Respondent Tynan Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 36978 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103051710
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014123001, Monitoring and Reporting Requirements, No. 1 and 30 Tex. Admin. Code §§ 305.125(17) and 319.7(d)

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, failure to submit the required discharge monitoring reports ("DMRs") for Outfall 001 for the monthly monitoring periods of January 2008 through September 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 9 243 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$9,000

Nine single events are recommended, one for each of the nine missing DMRs.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$65 **Violation Final Penalty Total** \$9,630

This violation Final Assessed Penalty (adjusted for limits) \$9,630

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation
Case ID No. 36978
Reg. Ent. Reference No. RN103051710
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$900	20-Feb-2008	1-Aug-2009	1.45	\$65	n/a	\$65

Notes for DELAYED costs

Estimated cost to submit the missing DMRs. Date Required is the date the first DMR was due. Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$900

TOTAL

\$65

Screening Date 6-Jan-2009 **Docket No.** 2009-0018-MWD-E **PCW**

Respondent Tynan Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 36978 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN103051710

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2
Rule Cite(s) TPDES Permit No. WQ0014123001, Sludge Provisions, and 30 Tex. Admin. Code § 305.125(17)

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, failure to submit the annual sludge report for the reporting period ending July 31, 2008 by September 1, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1 Number of violation days

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 \$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$11 **Violation Final Penalty Total** \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation
Case ID No. 36978
Reg. Ent. Reference No. RN103051710
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
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)	\$250	1-Sep-2008	1-Aug-2009	0.92	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to prepare and submit the required sludge report. Date Required is the first day of non-compliance. Final Date is the expected compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$11

Screening Date 6-Jan-2009 **Docket No.** 2009-0018-MWD-E **PCW**
Respondent Tynan Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 36978 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103051710
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3
Rule Cite(s) TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements, No. 3 and 30 Tex. Admin. Code § 305.125(11)(B)

Violation Description Failed to maintain calibration and maintenance records for the laboratory equipment and the flow meter.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification		x		

Matrix Notes Greater than 30% but less than 70% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$19 **Violation Final Penalty Total** \$535

This violation Final Assessed Penalty (adjusted for limits) \$535

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation
Case ID No. 36978
Reg. Ent. Reference No. RN103051710
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
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	\$500	28-Oct-2008	1-Aug-2009	0.76	\$19	n/a	\$19
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 cost to maintain calibration and maintenance records for the laboratory equipment and the flow meter.
Date Required is the investigation date. Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$19

Screening Date 6-Jan-2009 **Docket No.** 2009-0018-MWD-E **PCW**
Respondent Tynan Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 36978 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103051710
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4
Rule Cite(s) TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements, No. 1 and 30 Tex. Admin. Code § 305.125(1)

Violation Description
 Failed to monitor the effluent characteristics at the frequency specified in the permit and maintain permitted effluent limits. Specifically, parameters for biochemical oxygen demand ("BOD") and total suspended solids ("TSS") were not collected and analyzed during the period of August 3, 2008 through October 28, 2008 and flow and chlorine residual were being monitored three times per week instead of five times per week as required by the permit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes
 Failure to monitor the effluent characteristics at the frequency specified in the permit could result in the exposure of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 156 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended. The penalty was calculated from the non-compliance documented date of August 3, 2008 to the screening date of January 6, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$673 **Violation Final Penalty Total** \$2,140

This violation Final Assessed Penalty (adjusted for limits) \$2,140

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation
Case ID No. 36978
Reg. Ent. Reference No. RN103051710
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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

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	\$1,500	3-Aug-2008	6-Jan-2009	0.43	\$32	\$641	\$673
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

Estimated cost (\$300 per sample) to monitor the effluent characteristics at the frequency specified in the permit.
Date Required is the first date of non-compliance, Final Date is the screening date.

Approx. Cost of Compliance

\$1,500

TOTAL

\$673

Screening Date 6-Jan-2009 **Docket No.** 2009-0018-MWD-E **PCW**
Respondent Tynan Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 36978 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103051710
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 5

Rule Cite(s) TPDES Permit No. WQ0014123001, Other Requirements No. 1 and 30 Tex. Admin. Code § 30.350(d)

Violation Description
 Failed to operate the Facility a minimum of five days per week by a licensed chief operator or an operator holding the required level of license or higher. Specifically, the operational records from April 1, 2008 through September 30, 2008 indicated that the Facility was operated only three times per week by an operator holding the required level of license.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Failure to employ or contract a licensed individual to operate the Facility at least five days per week could result in poor operation of the Facility, which in turn could result in the exposure of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 280 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended. The penalty was calculated from the non-compliance documented date of April 1, 2008 to the screening date of January 6, 2009.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16,110

Violation Final Penalty Total \$4,280

This violation Final Assessed Penalty (adjusted for limits) \$4,280

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation
Case ID No. 36978
Reg. Ent. Reference No. RN103051710
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel	\$20,000	1-Apr-2008	6-Jan-2009	0.77	\$767	\$15,342	\$16,110
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

Annual salary difference to contract a license D wastewater operator to operate the Facility a minimum of five days per week. Date Required is the date that the violation was first documented. Final Date is the screening date.

Approx. Cost of Compliance

\$20,000

TOTAL

\$16,110

Screening Date 6-Jan-2009 **Docket No.** 2009-0018-MWD-E **PCW**
Respondent Tynan Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 36978 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103051710
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 6
Rule Cite(s) TPDES Permit No. WQ0014123001, Effluent Limitations and Monitoring Requirements, No. 2 and 30 Tex. Admin. Code § 305.125(1)

Violation Description
 Failed to maintain a chlorine ("Cl") residual of at least 1.0 milligrams per liter ("mg/l"). Specifically, Cl residual was measured at 0.2 mg/l during the October 28, 2008 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	Potential	Potential	
	x			5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes
 Failure to maintain a Cl residual of at least 1.0 mg/l could result in the exposure of insignificant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 1 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$20 Violation Final Penalty Total \$535

This violation Final Assessed Penalty (adjusted for limits) \$535

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation
Case ID No. 36978
Reg. Ent. Reference No. RN103051710
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$500	28-Oct-2008	15-Aug-2009	0.80	\$20	n/a	\$20

Notes for DELAYED costs

Estimated cost to maintain a CI residual of at least 1.0 mg/l. Date Required is the investigation date, Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$20

Screening Date 6-Jan-2009 **Docket No.** 2009-0018-MWD-E **PCW**
Respondent Tynan Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 36978 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103051710
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 7
Rule Cite(s) TPDES Permit No. WQ0014123001, Operational Requirements No. 4 and 30 Tex. Admin. Code § 305.125(1) and (5)
Violation Description Failed to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures. Specifically, the Facility did not have alternate power sources, standby generators, and/or a retention protocol for inadequately treated wastewater.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures could result in the exposure of significant amounts of pollutants which would exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

		3	70	Number of violation days
<i>mark only one with an x</i>	daily			Violation Base Penalty \$7,500
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

Three monthly events are recommended. The penalty was calculated from the investigation date of October 28, 2008 to the screening date of January 6, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$432 **Violation Final Penalty Total** \$8,025

This violation Final Assessed Penalty (adjusted for limits) \$8,025

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation
Case ID No. 36978
Reg. Ent. Reference No. RN103051710
Media Water Quality
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$5,000	28-Oct-2008	15-Sep-2009	0.88	\$15	\$294	\$309
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,000	28-Oct-2008	15-Sep-2009	0.88	\$6	\$118	\$124
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
 Estimated cost (equipment and labor) to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures. Date Required is the investigation date, Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$7,000

TOTAL \$432

Screening Date 6-Jan-2009 **Docket No.** 2009-0018-MWD-E **PCW**
Respondent Tynan Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 36978 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103051710
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code § 21.4 and Texas Water Code § 5.702
Violation Description Failed to pay Consolidated Water Quality Fees for Account Nos. 23005022 and 90130003 for fiscal year 2009 and associated late fees.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			

>> Programmatic Matrix

	Major	Moderate	Minor	Percent

Matrix Notes N/A

Adjustment \$10,000

\$0

Violation Events

	1	1	Number of violation days
mark only one with an x	daily		Violation Base Penalty
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

No penalty is recommended because penalty and interest will be assessed at the next billing.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$0

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation
Case ID No. 36978
Reg. Ent. Reference No. RN103051710
Media Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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

N/A

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600637649 TYNAN WSC	Classification: AVERAGE	Rating: 5.00
Regulated Entity:	RN103051710 TYNAN WATER SUPPLY WWTP	Classification: AVERAGE	Site Rating: 5.00
ID Number(s):	WASTEWATER	PERMIT	WQ0014123001
	WASTEWATER	EPA ID	TX0119601
	WASTEWATER	PERMIT	TX0119601
	WASTEWATER	PERMIT	WQ0014123001
	WASTEWATER	PERMIT	TPDES0119601
Location:	LOCATED APPROXIMATELY 250 FT SE OF SH 359 & APPROXIMATELY 500 FT NE OF THE INTERSECTION OF SH 359 & FM RD 796 IN BEE COUNTY TEXAS		
TCEQ Region:	REGION 14 - CORPUS CHRISTI		
Date Compliance History Prepared:	January 05, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 05, 2004 to January 05, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Jorge Ibarra, P.E.</u>	Phone:	<u>(817) 588-5890</u>

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 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: 9/1/2008 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 | 02/20/2004 | (390214) |
| 2 | 03/16/2004 | (390219) |
| 3 | 02/18/2005 | (390215) |
| 4 | 03/21/2005 | (390218) |
| 5 | 03/22/2006 | (453001) |
| 6 | 09/04/2007 | (607422) |
| 7 | 03/27/2008 | (636809) |
| 8 | 12/23/2008 | (707473) |

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

Date: 03/22/2006 (453001)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
30 TAC Chapter 319, SubChapter A 319.7(c)
Monitoring Requirements 3c. (Page 5) PERMIT

Description: Failure to maintain records of monitoring activities including: date, time and place of sample or measurement; identity of individual who collected the sample or made the measurement; date and time of analysis; identity of the individual and laboratory who performed the analysis; the technique or method of analysis

Date: 09/04/2007

(607422)

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		
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		
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		
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		
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		
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		

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
TYNAN WATER SUPPLY
CORPORATION;
RN103051710**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0018-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Tynan Water Supply Corporation ("Respondent") under the authority of TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates a wastewater treatment plant located approximately 250 feet southeast of State Highway ("SH") 359 and approximately 500 feet northeast of the intersection of SH 359 and Farm-to-Market Road 796, in Bee County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twenty-six thousand two hundred fifteen dollars (\$26,215.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section

of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay the administrative penalty and qualifies under TEX. WATER CODE § 7.034 for full deferment of the assessed administrative penalty. Therefore, twenty-six thousand two hundred fifteen dollars (\$26,215.00) of the penalty is deferred contingent upon 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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order the Executive Director may require Respondent to pay all or part of the deferred penalty.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. on September 21, 2009, discharge monitoring reports ("DMRs") were submitted for the monitoring periods of January 2008 through September 2008;
 - b. on September 21, 2009, the Annual Sludge Report for the reporting period ending July 31, 2008 was submitted;
 - c. calibration and maintenance records for the laboratory equipment and flow meter are currently being maintained in accordance with TPDES Permit No. WQ0014123001;
 - d. on May 5, 2009, a licensed chief operator was hired and began operating the Facility a minimum of five days per week;
 - e. biochemical oxygen demand ("BOD") and total suspended solids ("TSS") parameters are being collected and analyzed by a licensed operator, in accordance with TPDES Permit No. WQ0014123001;
 - f. flow and chlorine residuals are being monitored by a licensed operator seven times per week and a chlorine residual of at least 1.0 milligrams per liter ("mg/l") is being maintained; and
 - g. as of August 31, 2009, all outstanding fees and associated late fees for Account Nos. 23005022 and 90130003 have been paid in full.

9. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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

1. During an investigation conducted on October 28, 2008, a TCEQ Corpus Christi Regional Office investigator documented that Respondent violated:
 - a. 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements No. 1, by failing to submit monitoring results at the intervals specified in the permit. Specifically, Respondent failed to submit the required DMRs for Outfall 001 for the monthly monitoring periods of January 2008 through September 2008;
 - b. 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014123001, Sludge Provisions, by failing to submit monitoring results at the intervals specified in the permit. Specifically, Respondent failed to submit the annual sludge reports for the reporting period ending July 31, 2008 by September 1, 2008;
 - c. 30 TEX. ADMIN. CODE § 305.125(11)(B) and TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements No. 3, by failing to maintain calibration and maintenance records for the laboratory equipment and the flow meter;
 - d. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements No. 1, by failing to monitor the effluent characteristics at the frequency specified in the permit and maintain permitted effluent limits. Specifically, parameters for BOD and TSS were not collected and analyzed during the period of August 3, 2008 through October 28, 2008 and flow and chlorine residual were monitored three times per week instead of five times per week as required by the permit;

- e. 30 TEX. ADMIN. CODE § 30.350(d) and TPDES Permit No. WQ0014123001, Other Requirements No. 1, by failing to operate the Facility a minimum of five days per week by a licensed chief operator or an operator holding the required level of license or higher. Specifically, the operational records from April 1, 2008 through September 30, 2008 indicated that the Facility was operated only three times per week by an operator holding the required level of license;
 - f. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014123001, Effluent and Monitoring Requirements No. 2, by failing to maintain a chlorine ("Cl") residual of at least 1.0 mg/l. Specifically, Cl residual was measured at 0.2 mg/l during the October 28, 2008 investigation;
 - g. 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0014123001, Operational Requirements No. 4, by failing to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures. Specifically, the Facility did not have alternate power sources, standby generators, and/or a retention protocol for inadequately treated wastewater; and
 - h. 30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702 , by failing to pay the Consolidated Water Quality Fees for Account Nos. 23005022 and 90130003 for fiscal year 2009 and associated late fees.
2. Respondent received notice of the violations on or about December 25, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Tynan Water Supply Corporation, Docket No. 2009-0018-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. Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, Respondent shall provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater, in accordance with TPDES Permit No. WQ0014123001, Operational Requirements.
 - b. Within 380 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

David Kennebeck, Water Section Manager
Texas Commission on Environmental Quality
Corpus Christi Regional Office
NRC Building, Suite 1200
6300 Ocean Drive, Unit 5839
Corpus Christi, Texas 78412-5839

3. The provisions of this Agreed Order shall apply to and be binding upon Respondent. 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 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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



For the Executive Director

7/23/2010

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 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;
Referral of this case to the Attorney Generals 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 Generals Office of any future enforcement actions; and
TCEQ seeking other relief as authorized by law.

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



Signature

5-20-10

Date

ALBERT J. ZDANSKY

Name (Printed or typed)

PRESIDENT

Title

Authorized representative of
Tynan Water Supply Corporation