

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0551-MWD-E TCEQ ID: RN101920791 CASE NO.: 39459

RESPONDENT NAME: City of Pineland

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 Pineland, located at the intersection of Thomas Street and Transmission Boulevard in Pineland, approximately 1.25 miles southeast of the intersection of United States Highway 96 and Farm-to-Market Road 83, Sabine County</p> <p>TYPE OF OPERATION: 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 July 12, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team I, MC 169, (512) 239-4490; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Randy Burch, Mayor, City of Pineland, P.O. Box 6, Pineland, Texas 75968 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: February 26, 2010</p> <p>Date of NOV/NOE Relating to this Case: March 18, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for flow, ammonia nitrogen, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010249001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$4,970</p> <p>Total Deferred: \$994 <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: \$3,976</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>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010249001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0010249001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Mar-2010	Screening	5-Apr-2010	EPA Due	
	PCW	5-Apr-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Pineland
Reg. Ent. Ref. No.	RN101920791
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39459	No. of Violations	2
Docket No.	2010-0551-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merilee Hupp
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$3,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **42.0%** Enhancement *Subtotals 2, 3, & 7* **\$1,470**

Notes The Respondent self-reported seven effluent violations and received one NOV for same or similar violations and one NOV without same or similar 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	\$2,267	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$27,750	

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$4,970**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$4,970**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$4,970**

DEFERRAL **20.0%** Reduction *Adjustment* **-\$994**

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 **\$3,976**

Screening Date 5-Apr-2010

Docket No 2010-0551-MWD-E

PCW

Respondent City of Pineland

Policy Revision 2 (September 2002)

Case ID No 39459

PCW Revision October 30, 2008

Reg. Ent. Reference No RN101920791

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	8	40%
	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 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%
<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) 42%

>> 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 self-reported seven effluent violations and received one NOV for same or similar violations and one NOV without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date: 5-Apr-2010

Docket No: 2010-0551-MWD-E

PCW

Respondent: City of Plineland

Policy Revision 2 (September 2002)

Case ID No: 39459

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101920791

Media [Statute]: Water Quality

Enf. Coordinator: Merrilee Hupp

Violation Number: 1

Rule Cite(s): Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010249001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description: Failed to comply with the permitted effluent limitations, as documented during a record review on February 26, 2010, and shown in the attached violation table.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent: 10%

>> 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. Total suspended solids and flow were 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 levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 1

Number of violation days: 31

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$1,000

One quarterly event is recommended for the quarter including the month of October 2009.

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: \$2,267

Violation Final Penalty Total: \$1,420

This violation Final Assessed Penalty (adjusted for limits): \$1,420

Economic Benefit Worksheet

Respondent: City of Pineland
Case ID No.: 39459
Reg. Ent. Reference No.: RN101920791
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 Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$27,750	31-Oct-2009	31-Dec-2010	1.17	\$108	\$2,159	\$2,267
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

Actual cost to replace aerators to increase aeration to levels high enough to remove ammonia-nitrogen from the wastewater or support sufficient organism colonies to promote an adequate floc and remove total suspended solids. Date required is first documented noncompliance and the final date is expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$27,750

TOTAL

\$2,267

Screening Date 5-Apr-2010 **Docket No.** 2010-0551-MWD-E **PCW**
Respondent City of Pineland *Policy Revision 2 (September 2002)*
Case ID No. 39459 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101920791
Media [Statute] Water Quality
Enf. Coordinator Merrilee Hupp
Violation Number 2
Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010249001, Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on February 26, 2010, and shown in the attached violation table.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes
 A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$2,500

One monthly event is recommended for the month of November 2009.

Good Faith Efforts to Comply Reduction

	Reduction	
	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 \$2,500

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Pineland
Case ID No. 39459
Reg. Ent. Reference No. RN101920791
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit is covered in the economic benefit for Violation No. 1.

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

Respondent: City of Pineland
 TPDES Permit No. WQ0010249001
 RN101920791
 Case No. 39459
 Docket No. 2010-0551-MWD-E

Effluent Violation Table

Month/Year	Daily Avg. Flow limit = 0.214 (MGD)	NH ₃ -N Daily Avg. Loading limit = 5.4 (lbs/day)	NH ₃ -N Daily Avg. Conc. limit = 3.0 (mg/L)	NH ₃ -N Single Grab Conc. limit = 15 (mg/L)	TSS Daily Avg. Conc. limit = 15 (mg/L)	TSS Daily Avg. Loading limit = 27 (lbs/day)
October 2009	0.241	8.18	4.24	c	15.2	68.4
November 2009	c	21.12	14.8	19.40	c	c

c: compliant
 Avg.: average

*MGD: million gallons per day

NH₃-N: ammonia nitrogen
 mg/L: milligrams per liter

TSS: total suspended solids
 lbs/day: pounds per day
 Conc: concentration

Compliance History Report

Customer/Respondent/Owner-Operator: CN600690127 City of Pineland Classification: AVERAGE Rating: 2.84
Regulated Entity: RN101920791 CITY OF PINELAND Classification: AVERAGE Site Rating: 0.87
ID Number(s): WASTEWATER PERMIT WQ0010249001
WASTEWATER PERMIT TPDES0027154
WASTEWATER PERMIT TX0027154
WASTEWATER LICENSING LICENSE WQ0010249001

Location: At intersec. of Thomas St. and Transmisslon Blvd. in Pineland,
approx. 1.25 m. SE of intersec. of U.S. Hwy. 96 and FM 83, Sabine Co., Tx.
TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: March 25, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 25, 2005 to March 25, 2010

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

Name: Merrilee Hupp Phone: 512- 239 - 4490

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur?
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 04/22/2005 (421316)
- 2 05/18/2005 (421317)
- 3 06/27/2005 (421318)
- 4 07/20/2005 (442294)
- 5 09/02/2005 (442295)
- 6 09/22/2005 (442296)
- 7 10/17/2005 (471262)
- 8 11/28/2005 (471263)
- 9 12/19/2005 (471264)
- 10 01/16/2006 (471265)
- 11 02/21/2006 (471260)
- 12 03/20/2006 (471261)
- 13 04/14/2006 (500000)
- 14 05/17/2006 (500001)
- 15 06/19/2006 (500002)
- 16 07/19/2006 (522108)
- 17 08/28/2006 (522109)
- 18 09/20/2006 (522110)

19 10/23/2006 (546768)
20 11/16/2006 (546769)
21 12/21/2006 (546770)
22 01/15/2007 (579068)
23 02/23/2007 (579063)
24 03/23/2007 (579064)
25 04/20/2007 (579065)
26 05/22/2007 (769331)
27 06/01/2007 (557055)
28 06/11/2007 (579067)
29 06/18/2007 (579066)
30 06/29/2007 (565225)
31 07/19/2007 (602693)
32 08/20/2007 (602694)
33 09/24/2007 (602695)
34 10/22/2007 (620946)
35 11/27/2007 (620947)
36 12/28/2007 (620948)
37 01/18/2008 (673116)
38 02/11/2008 (617130)
39 02/19/2008 (673115)
40 03/24/2008 (691260)
41 03/31/2008 (691261)
42 04/07/2008 (638282)
43 05/23/2008 (691262)
44 06/20/2008 (712119)
45 07/21/2008 (712120)
46 08/20/2008 (712121)
47 09/22/2008 (712122)
48 10/20/2008 (728488)
49 11/19/2008 (728489)
50 12/22/2008 (728490)
51 01/20/2009 (751578)
52 02/19/2009 (751577)
53 03/18/2009 (769329)
54 04/10/2009 (727207)
55 04/20/2009 (769330)
56 05/18/2009 (769332)
57 02/09/2010 (789958)
58 03/19/2010 (793935)

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

Date: 03/31/2005 (421316) CN600690127

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: 07/31/2005 (442295) CN600690127

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: 10/31/2006 (546769) CN600690127

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (579063) CN600690127

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: 05/31/2007 (557055) CN600690127

Self Report? NO Classification: Moderate

Citation: WQ0010249-001 PERMIT

Description: The permittee failed to submit an engineering and financial planning report to the Commission after exceeding 75% of the permitted flow for three consecutive months. 2b

Self Report? NO Classification: Moderate

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

WQ0010249-001 PERMIT

Description: Failure by the regulated entity to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Citation: EL&MR 1 PERMIT

Description: Failure by the City of Pineland to discharge effluent that is compliant with permitted daily average flow limitations.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)

30 TAC Chapter 317 317.7(i)

Description: Failure by the City of Pineland to have atmospheric vacuum breaker installed on the hose bibbs in the wastewater treatment plant.

Self Report? NO Classification: Minor

Citation: OpR 11 PERMIT

Description: Failure by the City of Pineland to maintain adequate sludge disposal records.

Self Report? NO Classification: Minor

Citation: OpR 1 PERMIT

Description: Failure by the City of Pineland to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: OpR 1 PERMIT

Description: Failure by the City of Pineland to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: EL&MR 2 PERMIT

Description: Failure by the City of Pineland to discharge effluent that is compliant with permitted limitations.

Self Report? NO Classification: Minor

Citation: OpR 1 PERMIT

Description: Failure by the City of Pineland to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: M&RR 2 PERMIT

Description: Failure by the City of Pineland to check the chlorine meter, used for chlorine residual analysis, against secondary standards.

Self Report? NO Classification: Moderate

Citation: M&RR 7c PERMIT

Description: Failure by the City of Pineland to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.

Date: 09/30/2008 (728488) CN600690127

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 04/13/2009 (727207) CN600690127

Self Report? NO Classification: Minor

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

M&RR, No.2 PERMIT

Description: Failure by the permittee to properly calculate the effluent loadings.

Self Report? NO Classification: Minor

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

SP, III PERMIT

Description: Failure by the permittee to maintain adequate sludge disposal records.

Self Report? NO Classification: Minor

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

OpR 1 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

PC 1a, Pg. 7 PERMIT

Description: Failure to submit a properly completed DMR for November 2008.

Self Report? NO Classification: Minor

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

OpR 1 PERMIT

Description: Failure to properly operate /maintain the chlorine contact basin.

Self Report? NO Classification: Minor

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

OpR 1 PERMIT

Description: Failure by the permittee to provide an audible alarm system at a lift station.

Self Report? NO Classification: Minor

Citation: OpR 1 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment and disposal are properly operated and maintained.

Date: 10/31/2009 CN600690127

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: 11/30/2009 CN600690127

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

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 PINELAND
RN101920791**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0551-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 City of Pineland ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at the intersection of Thomas Street and Transmission Boulevard in Pineland, approximately 1.25 miles southeast of the intersection of United States Highway 96 and Farm-to-Market Road 83 in Sabine 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 March 23, 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 Four Thousand Nine Hundred Seventy Dollars (\$4,970) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Thousand Nine Hundred Seventy-Six Dollars (\$3,976) of the administrative penalty and Nine Hundred Ninety-Four Dollars (\$994) 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 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.
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

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010249001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on February 26, 2010, and shown in the table below:

Month/Year	Daily Avg. Flow	NH ₃ -N Daily Avg. Loading	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Single Grab Conc.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	limit = 0.214 (MGD)	limit = 5.4 (lbs/day)	limit = 3.0 (mg/L)	limit = 15 (mg/L)	limit = 15 (mg/L)	limit = 27 (lbs/day)
October 2009	0.241	8.18	4.24	c	15.2	68.4
November 2009	c	21.12	14.8	19.40	c	c

c: compliant
 Avg.: average
 MGD: million gallons per day

NH₃-N: ammonia nitrogen
 mg/L: milligrams per liter

TSS: total suspended solids
 lbs/day: pounds per day
 Conc: concentration

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 Pineland, Docket No. 2010-0551-MWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010249001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 6/22/2010

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:

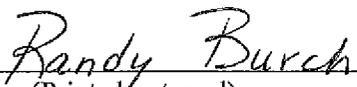
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement 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 05-11-10



Name (Printed or typed)
Authorized Representative of
City of Pineland

Title Mayor

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.

