

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-2048-MWD-E **TCEQ ID:** RN101920502 **CASE NO.:** 38870

**RESPONDENT NAME:** City of Florence

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Florence WWTP, located approximately 1.25 miles southeast of the intersection of State Highway 195 and Farm-to-Market Road 487, Williamson County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment system</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the BD and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 19, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Mary Condon, Mayor, City of Florence, P.O. Box 430, Florence, Texas 76527  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 30, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 3, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failure to comply with permit effluent limits for total suspended solids and total ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010944001 Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$5,970</p> <p><b>Total Deferred:</b> \$1,194  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$199 (remaining \$4,577 due in 23 monthly payments of \$199 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has repaired the diffusers in the aeration basin as of April 30, 2009 and returned to compliance with effluent limits during May of 2009.</p>

Additional ID No(s): WQ0010944001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	7-Dec-2009	<b>Screening</b>	15-Dec-2009	<b>EPA Due</b>	
	<b>PCW</b>	22-Dec-2009				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Florence				
<b>Reg. Ent. Ref. No.</b>	RN101920502				
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	38870	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-2048-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harvey Wilson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1:* **\$3,000**

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

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

**Compliance History** **109.0%** Enhancement *Subtotals 2, 3, & 7:* **\$3,270**

**Notes:** A 109% enhancement is recommended because the Respondent has received one 1660 Agreed Order with denial of liability, two NOV's for non-similar violations, and 17 self-reported months of effluent 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:* **\$300**

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

Total EB Amounts	\$35	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

**SUM OF SUBTOTALS 1-7** *Final Subtotal:* **\$5,970**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes:**

*Final Penalty Amount:* **\$5,970**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty:* **\$5,970**

**DEFERRAL** **20.0%** Reduction *Adjustment:* **-\$1,194**

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** **\$4,776**

Screening Date: 15-Dec-2009

Docket No. 2009-2048-MWD-E

PCW

Respondent: City of Florence

Policy Revision 2 (September 2002)

Case ID No. 38870

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920502

Media [Statute]: Water Quality

Enf. Coordinator: Harvey Wilson

### Compliance History Worksheet

>> Compliance History: Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	17	85%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 109%

>> 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

A 109% enhancement is recommended because the Respondent has received one 1660 Agreed Order with denial of liability, two NOVs for non-similar violations, and 17 self-reported months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 109%

Screening Date: 15-Dec-2009

Docket No: 2009-2048-MWD-E

PCW

Respondent: City of Florence

Policy Revision 2 (September 2002)

Case ID No: 38870

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101920502

Media [Statute]: Water Quality

Enf. Coordinator: Harvey Wilson

Violation Number: 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010944001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permit effluent limits as depicted on the attached 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

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.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 3

Number of violation days: 120

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$3,000

Three quarterly events are recommended

Good Faith Efforts to Comply

10.0% Reduction

\$300

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

Notes

The Respondent returned to compliance in May of 2009.

Violation Subtotal: \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$35

Violation Final Penalty Total: \$5,970

This violation Final Assessed Penalty (adjusted for limits): \$5,970

# Economic Benefit Worksheet

**Respondent:** City of Florence  
**Case ID No.:** 38870  
**Reg. Ent. Reference No.:** RN101920502  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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### Delayed Costs

Equipment	\$1,000	31-Oct-2008	1-May-2009	0.50	\$2	\$33	\$35
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of repairing the diffusers in the aeration basin. Date Required was the date the violation was initially documented. Final Date was the 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

\$1,000

**TOTAL**

\$35

City of Florence  
Docket No. 2009-2048-MWD-E  
Permit No. WQ0010944001

	Total Suspended Solids, Single Grab, Maximum 60 mg/L	Total Suspended Solids, Daily Average, Maximum 15 mg/L	Total Ammonia Nitrogen, Single Grab, Maximum 15 mg/L	Total Ammonia Nitrogen, Daily Average, Maximum 3 mg/L	Total Ammonia Nitrogen, Daily Average (loading), Maximum 6.3 lbs/day
October 2008	187	51	C	C	C
December, 2008	C	23	38	8.133	C
February, 2009	C	C	18.5	13.46	6.84
April, 2009	C	C	18.1	7.56	10.24
mg/L milligrams per liter		C = compliant		lbs/day = pounds per day	



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600665038	City of Florence	Classification: AVERAGE	Rating: 2.82
Regulated Entity:	RN101920502	CITY OF FLORENCE WWTP	Classification: AVERAGE	Site Rating: 2.44
ID Number(s):	WASTEWATER	PERMIT		WQ0010944001
	WASTEWATER	PERMIT		TPDES0078247
	WASTEWATER	PERMIT		TX0078247
	WASTEWATER LICENSING	LICENSE		WQ0010944001
Location:	APPROXIMATELY 1.25 MILES SE OF THE INTERSECTION OF STATE HIGHWAY 195 AND FARM-TO-MARKET RD 487 IN WILLIAMSON COUNTY			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	December 11, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 11, 2004 to December 11, 2009			

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

Name: Harvey Wilson Phone: 239 - 0321

## Site Compliance History Components

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

### Components (Multimedia) for the Site :

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

N/A	Effective Date: 04/13/2007	ADMINORDER 2006-1545-MWD-E
	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Rqmt Prov: Effluent Limits PERMIT	
	Description: Failure to comply with permit effluent limit as documented by a TCEQ record review of self-reported data.	
	Classification: Moderate	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Rqmt Prov: Self-reporting Requirements PERMIT	
	Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.	
- 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	12/19/2004	(386378)
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2	02/14/2005	(386377)
3	02/14/2005	(386379)
4	03/24/2005	(350127)
5	04/11/2005	(424261)
6	04/11/2005	(424262)
7	04/27/2005	(378930)
8	06/09/2005	(424263)
9	08/22/2005	(445038)
10	10/04/2005	(449415)
11	10/04/2005	(476063)
12	10/06/2005	(476064)
13	10/20/2005	(445036)
14	10/20/2005	(445037)
15	11/22/2005	(476065)
16	01/09/2006	(476066)
17	01/19/2006	(476067)
18	02/17/2006	(476061)
19	03/29/2006	(476062)
20	05/02/2006	(503251)
21	05/19/2006	(503252)
22	06/21/2006	(503253)
23	07/17/2006	(503254)
24	08/24/2006	(497115)
25	08/29/2006	(525620)
26	09/27/2006	(525621)
27	11/15/2006	(550257)
28	11/20/2006	(550258)
29	12/20/2006	(550259)
30	01/22/2007	(550260)
31	02/16/2007	(585556)
32	04/11/2007	(585557)
33	05/23/2007	(585558)
34	05/23/2007	(585559)
35	07/24/2007	(585560)
36	07/24/2007	(585561)
37	09/10/2007	(608538)
38	09/28/2007	(608539)
39	11/16/2007	(623757)
40	11/16/2007	(623758)
41	01/14/2008	(674976)
42	02/20/2008	(674977)
43	04/25/2008	(674974)
44	04/25/2008	(674975)
45	04/25/2008	(693320)
46	07/23/2008	(693321)
47	07/23/2008	(693322)
48	07/23/2008	(693323)
49	09/29/2008	(714559)
50	09/29/2008	(714560)
51	10/29/2008	(730529)
52	12/22/2008	(730530)
53	12/22/2008	(730531)
54	10/23/2009	(777603)
55	12/03/2009	(777856)

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

Date: 10/04/2005 (449415) CN600665038

Self Report? NO Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/30/2005 (476067) CN600665038

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: 01/31/2006 (476061) CN600665038

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)

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

Date: 02/28/2006 (476062) CN600665038

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: 04/30/2006 (503252) CN600665038

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)

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

Date: 06/30/2006 (503254) CN600665038

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: 11/30/2006 (550259) CN600665038

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)

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

Date: 02/28/2007 (585557) CN600665038

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: 09/30/2007 (623757) CN600665038

Self Report? YES Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 10/31/2007 (623758) CN600665038

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: 11/30/2007 (674976) CN600665038  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 12/31/2007 (674977) CN600665038  
 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: 01/31/2008 (674974) CN600665038  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 02/29/2008 (674975) CN600665038  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2008 (730530) CN600665038  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 12/31/2008 (674974) CN600665038  
 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: 2/29/2009 (674975) CN600665038  
 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: 04/30/2009 (730530) CN600665038  
 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: 09/16/2009 (775471) CN600665038  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 210, SubChapter A 210.5(a)  
 Description: Failure to obtain a 210.5 authorization for the use of reclaimed water prior to providing it to a user.

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 FLORENCE  
RN101920502**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-2048-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 Florence ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a domestic wastewater treatment system at approximately 1.25 miles southeast of the intersection of State Highway 195 and Farm-to-Market Road 487 in Williamson County, Texas (the "Facility").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about December 8, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Nine Hundred Seventy Dollars (\$5,970) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The City has paid One Hundred Ninety-Nine Dollars (\$199) of the administrative penalty and One Thousand One Hundred Ninety-Four Dollars (\$1,194) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Five Hundred Seventy-Seven Dollars (\$4,577) of the administrative penalty shall be payable in 23 monthly payments of One Hundred Ninety-Nine Dollars (\$199) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has repaired the diffusers in the aeration basin as of April 30, 2009 and returned to compliance with effluent limits during May of 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010944001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 30, 2009, and depicted in the table below:

	Total Suspended Solids, Single Grab, Maximum 60 mg/L	Total Suspended Solids, Daily Average, Maximum 15 mg/L	Total Ammonia Nitrogen, Single Grab, Maximum 15 mg/L	Total Ammonia Nitrogen, Daily Average, Maximum 3 mg/L	Total Ammonia Nitrogen, Daily Average (loading), Maximum 6.3 lbs/day
October 2008	187	51	C	C	C
December, 2008	C	23	38	8.133	C
February, 2009	C	C	18.5	13.46	6.84
April, 2009	C	C	18.1	7.56	10.24
	mg/L milligrams per liter		C = compliant		lbs/day = pounds per day

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Florence, Docket No. 2009-2048-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. 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 City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Sadler  
For the Executive Director

7/9/2010  
Date

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

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

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

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

Mary Condon  
Signature

5/18/2010  
Date

MARY CONDON  
Name (Printed or typed)  
Authorized Representative of  
City of Florence

Mayor  
Title

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

