

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2010-0674-MWD-E **TCEQ ID:** RN101612588 **CASE NO.:** 39584  
**RESPONDENT NAME:** City of Henderson

<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> Northside Wastewater Treatment Facility, located at 2397 Farm-to-Market Road 782 North, approximately 2.3 miles north of United States Highway 259 and 0.8 mile west of Farm-to-Market Road 782, Rusk County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 30, 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. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Randy W. Boyd, Utilities Director, City of Henderson, 400 West Main Street, Henderson, Texas 75652  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2010-0674-MWD-E

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> March 25, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 22, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failure to comply with permitted effluent limits for ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010187002, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$4,600</p> <p><b>Total Deferred:</b> \$920  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,680</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On November 30, 2009, repaired the faulty aerator;</p> <p>b. On January 23, 2010, hired a sludge transporter to remove solids from the Facility;</p> <p>c. On February 15, 2010, repaired the lift station grinder pump; and</p> <p>d. By February 28, 2010, returned to compliance with the permitted effluent limits.</p>

Additional ID No(s): WQ0010187002



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	26-Apr-2010	Screening	28-Apr-2010	EPA Due	5-Jun-2010
	PCW	3-May-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Henderson
Reg. Ent. Ref. No.	RN101612588
Facility/Site Region	5-Tyler
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39584	No. of Violations	1
Docket No.	2010-0674-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

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

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

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

Notes: Enhancement recommended for having three NOVs for self-reported effluent violations and one NOV for non-similar violations within the last five years.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 28-Apr-2010

Docket No. 2010-0674-MWD-E

PCW

Respondent City of Henderson

Policy Revision 2 (September 2002)

Case ID No. 39584

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612588

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

### 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)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 17%

>> 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

Enhancement recommended for having three NOVs for self-reported effluent violations and one NOV for non-similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 17%

Screening Date: 28-Apr-2010

Docket No.: 2010-0874-MWD-E

PCW

Respondent: City of Henderson

Policy Revision 2 (September 2002)

Case ID No.: 39584

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101612588

Media [Statute]: Water Quality

Enf. Coordinator: Samuel Short

Violation Number: 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 80 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010187002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on March 25, 2010 and shown in the attached table.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent: 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH3-N") 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 an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment: \$7,600

\$2,500

Violation Events

Number of Violation Events: 2

91 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty: \$5,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes: The Respondent returned to compliance by February 28, 2010.

Violation Subtotal: \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$165

Violation Final Penalty Total: \$4,600

This violation Final Assessed Penalty (adjusted for limits): \$4,600

## Economic Benefit Worksheet

**Respondent** City of Henderson  
**Case ID No.** 39584  
**Req. Ent. Reference No.** RN101612588  
**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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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)	\$8,000	30-Sep-2009	28-Feb-2010	0.41	\$165	n/a	\$165

#### Notes for DELAYED costs

The cost to repair the lift station grinder pump (\$4,730), hire a sludge transporter (\$2,535), and the estimated cost to repair the faulty aerator. Date required is the first date of non-compliance. The final date is the date the Respondent returned to 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

\$8,000

**TOTAL**

\$165

**Effluent Limit Violation Table**

table rev.

Respondent: **City of Henderson**

ID Number(s): **TPDES Permit No. WQ0010187002; Case No. 39584**

Docket Number: **2010-0674-MWD-E**

Env. Coordinator: **Samuel Short**

Corresponds to Violation Number: **1**

**EFFLUENT PARAMETER**

**Permit Limit**

<i>Month/Year</i>	Ammonia Nitrogen Daily Average Concentration	Ammonia Nitrogen Daily max.											
	3 mg/L	7 mg/L											
9/30/2009	3.399	9.5											
11/30/2009	7.57	18.5											
12/31/2009	4.33	16.6											

Name	Abbreviation
milligrams per liter	mg/L
maximum	max.



# Compliance History Report

Customer/Respondent/Owner-Operator: CN600690739 City of Henderson Classification: AVERAGE Rating: 2.49  
Regulated Entity: RN101612588 NORTHSIDE WASTEWATER TREATMENT FACILITY Classification: HIGH Site Rating: 0.05  
ID Number(s): WASTEWATER PERMIT WQ0010187002  
WASTEWATER PERMIT TPDES0091910  
WASTEWATER PERMIT TX0091910  
WASTEWATER LICENSING LICENSE WQ0010187002  
STORMWATER PERMIT TXR05X642  
Location: LOCATED AT 2387 FARM-TO-MARKET ROAD 782 NORTH, APPROXIMATELY 2.3 MILES NORTH OF U.S. HIGHWAY 259 AND 0.8 MILE WEST OF FARM-TO-MARKET ROAD 782 IN RUSK COUNTY, TEXAS  
TCEQ Region: REGION 05 - TYLER  
Date Compliance History Prepared: April 28, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: April 28, 2005 to April 28, 2010

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

Name: Samuel Short Phone: (512) 239-5363

## 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

- 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	05/27/2005	(587048)
2	06/27/2005	(587050)
3	07/20/2005	(587053)
4	08/25/2005	(587058)
5	09/27/2005	(587060)
6	11/25/2005	(587064)
7	12/27/2005	(435624)
8	12/29/2005	(587066)
9	02/01/2006	(587068)
10	02/21/2006	(587042)
11	03/14/2006	(587044)
12	03/14/2006	(587062)
13	04/20/2006	(587046)
14	05/11/2006	(587049)
15	06/16/2006	(587051)
16	06/16/2006	(587054)
17	08/30/2006	(587059)
18	09/20/2006	(587061)
19	10/24/2006	(587063)
20	11/13/2006	(587065)
21	11/21/2006	(587069)
22	12/14/2006	(587067)
23	02/21/2007	(587043)

24	04/02/2007	(754509)
25	04/04/2007	(587047)
26	05/16/2007	(754514)
27	06/21/2007	(587052)
28	07/20/2007	(587055)
29	08/20/2007	(808566)
30	09/21/2007	(754520)
31	10/11/2007	(754522)
32	12/10/2007	(754524)
33	01/03/2008	(754526)
34	02/21/2008	(754507)
35	04/04/2008	(754511)
36	04/14/2008	(754528)
37	04/16/2008	(754512)
38	05/20/2008	(754515)
39	06/18/2008	(754516)
40	07/16/2008	(754517)
41	08/18/2008	(754519)
42	09/02/2008	(689635)
43	09/22/2008	(754521)
44	10/16/2008	(754523)
45	11/20/2008	(754525)
46	12/19/2008	(754527)
47	01/19/2009	(754529)
48	02/27/2009	(754508)
49	03/11/2009	(754510)
50	04/09/2009	(727148)
51	04/10/2009	(754513)
52	04/10/2009	(754518)
53	05/14/2009	(771794)
54	05/14/2009	(771795)
55	01/29/2010	(787218)
56	03/17/2010	(795857)
57	04/22/2010	(797156)

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

Date: 01/28/2010 (787218) CN600690739

Self NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.4(d)

Description: Failure to properly operate and maintain the treatment units. Clarifier No. 1 had an oily sheen floating on the water surface. According to the operator the oily sheen was due to a leaking gearbox. There was an uneven flow going over the weirs on both clarifiers. At the time of the investigation, the investigator observed an excess of floating debris and/or trash floating in the clarifiers and in the chlorine contact chamber. Excessive solids contained in the treatment units are usually disch

Self NO Classification: Moderate

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

Description: The flow meter was found to be operating erratically.

Date 09/30/2009 CN600690739

Self 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 CN600690739

Self 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 12/31/2009 CN600690739

Self 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 HENDERSON  
RN101612588**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0674-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Henderson ("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 2397 Farm-to-Market Road 782 North, approximately 2.3 miles north of United States Highway 259 and 0.8 mile west of Farm-to-Market Road 782 in Rusk 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 April 27, 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 Six Hundred Dollars (\$4,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Six Hundred Eighty Dollars (\$3,680) of the

- administrative penalty and Nine Hundred Twenty Dollars (\$920) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
    - a. On November 30, 2009, repaired the faulty aerator;
    - b. On January 23, 2010, hired a sludge transporter to remove solids from the Facility;
    - c. On February 15, 2010, repaired the lift station grinder pump; and
    - d. By February 28, 2010, returned to compliance with the permitted effluent limits.
  10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
  11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010187002, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 25, 2010 and as shown in the table below.

<b>EFFLUENT PARAMETER</b>		
<b>Permit Limit</b>		
	Ammonia Nitrogen Daily Average Concentration	Ammonia Nitrogen Daily max
<i>Month/Year</i>	3 mg/L	7 mg/L
9/30/2009	3.399	9.5
11/30/2009	7.57	18.5
12/31/2009	4.33	16.6

Name	Abbreviation
milligrams per liter	mg/L
maximum	max.

### 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 Henderson, Docket No. 2010-0674-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Szolter  
\_\_\_\_\_  
For the Executive Director

8/3/2010  
\_\_\_\_\_  
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.

Randy W. Bayal  
\_\_\_\_\_  
Signature

6/14/10  
\_\_\_\_\_  
Date

Randy W. Bayal  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Henderson

Utilities Director  
\_\_\_\_\_  
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.

