

Executive Summary – Enforcement Matter – Case No. 41486

City of Pearland

RN101613446

Docket No. 2011-0585-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Barry Rose Facility 2, located at 1902 1/2 Barry Rose Street, immediately west of Clear Creek and approximately 7,000 feet north of Farm-to-Market Road 518, Brazoria County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 12, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,700

Amount Deferred for Expedited Settlement: \$1,740

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,960

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41486
City of Pearland
RN101613446
Docket No. 2011-0585-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 21, 2011
Date(s) of NOE(s): April 5, 2011

Violation Information

Failed to comply with permitted effluent limits for carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010134002 Interim Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent repaired the pump that controls the insertion of sodium bisulfate at the wastewater treatment plant and returned to compliance with the permitted effluent limits by September 30, 2010.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Tom Reid, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, Texas 77581
Jennifer Phan, Assistant Director of Public Works, City of Pearland, 3519 Liberty Drive, Pearland, Texas 77581
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Apr-2011	Screening	20-Apr-2011	EPA Due	
	PCW	20-Apr-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Pearland
Reg. Ent. Ref. No.	RN101613446
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	41486	No. of Violations	1
Docket No.	2011-0585-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **99.0%** Enhancement *Subtotals 2, 3, & 7* **\$4,950**

Notes: Enhancement for 18 months of self reported effluent violations and two NOV's for dissimilar violations and one NOV for a same/similar violation.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$18
Approx. Cost of Compliance \$500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$8,700**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$8,700**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$8,700**

DEFERRAL **20.0%** Reduction *Adjustment* **-\$1,740**

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 **\$6,960**

Screening Date 20-Apr-2011

Docket No. 2011-0585-MWD-E

PCW

Respondent City of Pearland

Policy Revision 2 (September 2002)

Case ID No. 41486

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613446

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	19	95%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 99%

>> **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 for 18 months of self reported effluent violations and two NOVs for dissimilar violations and one NOV for a same/similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 99%

Screening Date 20-Apr-2011

Docket No. 2011-0585-MWD-E

PCW

Respondent City of Pearland

Policy Revision 2 (September 2002)

Case ID No. 41486

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613446

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. WQ0010134002 Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review on March 21, 2011. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes

A simplified model was used to evaluate the carbonaceous biochemical oxygen demand 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 insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 124

Table for frequency selection: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$5,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$1,250

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (marked with x).

Notes The Respondent returned to compliance by September 30, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$8,700

This violation Final Assessed Penalty (adjusted for limits) \$8,700

Economic Benefit Worksheet

Respondent City of Pearland
Case ID No. 41486
Reg. Ent. Reference No. RN101613446
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	31-Mar-2010	30-Sep-2010	0.50	\$1	\$17	\$18
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 pump controlling the insertion of sodium bisulfate. Date Required is the date the first non-compliant excursion was documented. Final Date is 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

\$500

TOTAL

\$18

City of Pearland
RN101613446; WQ0010134002
Docket No. 2011-0585-MWD-E
Violation Table

Monitoring Period	Carbonaceous Biochemical Oxygen Demand, Daily Average Concentration 5 milligrams per liter
March 2010	5.04
May 2010	7.45
July 2010	5.69
August 2010	5.59



Compliance History

Customer/Respondent/Owner-Operator:	CN600595052	City of Pearland	Classification: AVERAGE	Rating: 2.52
Regulated Entity:	RN101613446	BARRY ROSE FACILITY 2	Classification: AVERAGE	Site Rating: 0.95
ID Number(s):	WASTEWATER	PERMIT		WQ0010134002
	WASTEWATER	EPA ID		TX0032735
	WASTEWATER LICENSING	LICENSE		WQ0010134002
	STORMWATER	PERMIT		TXR05V643
Location:	located at 1902 1/2 Barry Rose Street, immediately west of Clear Creek and approximately 7,000 feet north of Farm-to-Market Road 518 in Brazoria County, Texas			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	April 18, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 18, 2006 to April 18, 2011			
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: 9/1/2010 Repeat Violator: | NO | |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 02/23/2007 (570906)
- 2 03/23/2007 (579709)
- 3 04/24/2006 (579711)
- 4 04/23/2007 (579712)
- 5 05/18/2006 (579714)
- 6 05/21/2007 (579715)
- 7 06/21/2006 (579717)
- 8 06/21/2007 (579718)
- 9 07/19/2006 (579719)
- 10 07/23/2007 (579720)
- 11 08/26/2006 (579722)

12	09/27/2006	(579724)
13	10/23/2006	(579726)
14	11/22/2006	(579729)
15	12/22/2006	(579731)
16	01/16/2007	(579733)
17	04/23/2007	(579734)
18	08/31/2007	(607968)
19	09/17/2007	(607969)
20	10/24/2007	(607970)
21	05/14/2008	(641763)
22	02/21/2008	(728729)
23	03/28/2008	(728730)
24	04/21/2008	(728731)
25	05/19/2008	(728732)
26	06/30/2008	(728733)
27	04/17/2008	(728734)
28	08/22/2008	(728735)
29	10/21/2008	(728736)
30	11/23/2007	(728737)
31	11/24/2008	(728738)
32	01/03/2008	(728739)
33	12/22/2008	(728740)
34	01/19/2009	(728741)
35	12/03/2008	(735438)
36	11/19/2009	(741417)
37	02/19/2009	(751824)
38	03/11/2009	(751825)
39	04/20/2009	(751826)
40	04/20/2009	(751827)
41	05/18/2009	(769579)
42	06/11/2009	(769580)
43	11/13/2009	(778091)
44	05/14/2010	(783981)
45	02/18/2010	(808445)
46	08/27/2009	(808446)
47	09/17/2009	(808447)
48	10/22/2009	(808448)
49	11/19/2009	(808449)
50	12/15/2009	(808450)
51	10/22/2009	(808451)
52	03/17/2010	(832273)
53	04/19/2010	(832274)
54	05/18/2010	(832275)
55	06/09/2010	(846699)
56	07/14/2010	(861232)
57	08/24/2010	(867358)
58	09/20/2010	(874396)
59	10/18/2010	(881974)

60 11/17/2010 (888453)
 61 12/15/2010 (896760)
 62 10/18/2010 (902746)
 63 04/06/2011 (906813)
 64 02/16/2011 (909577)

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

Date: 05/31/2006 (579717) CN600595052
 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 (579719) CN600595052
 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: 07/31/2006 (579722) CN600595052
 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 (579729) CN600595052
 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: 03/31/2007 (579712) CN600595052
 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 (579718) CN600595052
 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: 06/30/2007 (579720) CN600595052
 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: 07/31/2007 (607968) CN600595052
 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: 08/31/2007 (607969) CN600595052
 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: 09/30/2007 (607970) CN600595052
 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 (728729) CN600595052

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:	05/14/2008	(641763)	CN600595052
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent the unauthorized discharge of wastewater from the collection system.		
Date	06/30/2008	(728734)	CN600595052
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	09/30/2008	(728736)	CN600595052
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	12/03/2008	(735438)	CN600595052
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	05/31/2009	(769580)	CN600595052
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	11/10/2009	(778091)	CN600595052
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.3(e)(5)		
Description:	Failure to maintain the Supervisory Control and Data Acquisition (SCADA) system. The SCADA system that was installed on the lift station at 3201 Wheat Ridge does not have a tall enough antenna to send signals all the time. There are times when the signals from the system cannot be sent due to the height of the trees in the area. The antenna must be elevated to assure that the system is operational at all times, or an audible alarm could be installed.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to provide a Reduced Flow Zone (RPZ) backflow prevention device on the potable water line located inside the fence of the lift station at 3201 Wheat Ridge.		
Date	03/31/2010	(832274)	CN600595052
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	05/31/2010	(846699)	CN600595052
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 07/31/2010 (867358) CN600595052
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 08/31/2010 (874396) CN600595052
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

- 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 PEARLAND
RN101613446**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0585-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 Pearland ("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 1902 1/2 Barry Rose Street, immediately west of Clear Creek and approximately 7,000 feet north of Farm-to-Market Road 518 in Brazoria 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 10, 2011.
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 Eight Thousand Seven Hundred Dollars (\$8,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Nine Hundred Sixty Dollars

- (\$6,960) of the administrative penalty and One Thousand Seven Hundred Forty Dollars (\$1,740) 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 repaired the pump that controls the insertion of sodium bisulfate at the wastewater treatment plant and returned to compliance with the permitted effluent limits by September 30, 2010.
 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. WQ0010134002 Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 21, 2011, and shown in the table below:

Violation Table

Monitoring Period	Carbonaceous Biochemical Oxygen Demand, Daily Average Concentration 5 milligrams per liter
March 2010	5.04
May 2010	7.45
July 2010	5.69
August 2010	5.59

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 Pearland, Docket No. 2011-0585-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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or

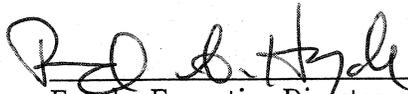
otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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



For the Executive Director

9/22/11

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.

Signature

JENNIFER PHAN

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

Date

July 8, 2011

ASSISTANT DIRECTOR OF PUBLIC WORKS
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.