

Executive Summary – Enforcement Matter – Case No. 41794

City of Murchison

RN101720530

Docket No. 2011-0907-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Murchison WWTP, located approximately 2,800 feet northeast of the intersection of Farm-to-Market Road 773 and County Road 1616, adjacent to County Road 1616 at the northeast edge of Murchison, Henderson 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 5, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,406

Amount Deferred for Expedited Settlement: \$1,081

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,325

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: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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City of Murchison
RN101720530
Docket No. 2011-0907-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 23, 2011

Date(s) of NOE(s): June 3, 2011

Violation Information

1. Failed to comply with the permitted effluent limits for total suspended solids, total residual chlorine, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013972001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].
2. Failed to timely submit discharge monitoring reports (“DMRs”) for the monitoring periods ending July 31, 2010 through October 31, 2010 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0013972001, Monitoring and Reporting Requirements No. 1].
3. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013972001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent submitted the DMRs for the monitoring periods ending July 31, 2010 through October 31, 2010 on June 13, 2011.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

- i. Submit the annual sludge report for the monitoring period ending July 31, 2010; and
- ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports, in accordance with TPDES Permit No. WQ0013972001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions.

b. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013972001 and Ordering Provisions a.i. and a.ii., including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports,

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City of Murchison
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Docket No. 2011-0907-MWD-E**

demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

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: Samuel Short, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-5363; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Mike Hill, Mayor, City of Murchison, P.O. Box 33,
Murchison, Texas 75778

Respondent's Attorney: N/A





Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|
| DATES | Assigned | 6-Jun-2011 | | | |
| | PCW | 14-Jun-2011 | Screening | 8-Jun-2011 | EPA Due |

| | |
|--|-------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Murchison |
| Reg. Ent. Ref. No. | RN101720530 |
| Facility/Site Region | 5-Tyler |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 41794 | No. of Violations | 3 |
| Docket No. | 2011-0907-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** **\$3,400**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **59.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,006**

Notes: Enhancement for six months of self-reported effluent violations, one NOV for the same/similar violations, two NOVs for dissimilar violations, and one Agreed Order with denial of liability within the last five years.

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 **\$1,046**
 Approx. Cost of Compliance **\$10,400**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,406**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$5,406**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,406**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,081**

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 **\$4,325**

Screening Date 8-Jun-2011

Docket No. 2011-0907-MWD-E

PCW

Respondent City of Murchison

Policy Revision 2 (September 2002)

Case ID No. 41794

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720530

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 7 | 35% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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 (<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) 59%

>> **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 six months of self-reported effluent violations, one NOV for the same/similar violations, two NOVs for dissimilar violations, and one Agreed Order with denial of liability within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 59%

Screening Date 8-Jun-2011

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PCW

Respondent City of Murchison

Policy Revision 2 (September 2002)

Case ID No. 41794

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720530

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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. WQ0013972001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description Failed to comply with the permitted effluent limits, as documented during a record review conducted on May 23, 2011 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (10%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 of environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 59

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

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,021

Violation Final Penalty Total \$3,180

This violation Final Assessed Penalty (adjusted for limits) \$3,180

Economic Benefit Worksheet

Respondent City of Murchison
Case ID No. 41794
Reg. Ent. Reference No. RN101720530
Media Water Quality
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|---------|-----|---------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$10,000 | 28-Feb-2010 | 14-Mar-2012 | 2.04 | \$1,021 | n/a | \$1,021 |

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the first date of non-compliance. The final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,021

Screening Date 8-Jun-2011

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PCW

Respondent City of Murchison

Policy Revision 2 (September 2002)

Case ID No. 41794

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720530

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0013972001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit discharge monitoring reports ("DMRs") for the monitoring periods ending July 31, 2010 through October 31, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 0% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | x | 1% |

Matrix Notes At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 4 Number of violation days 292

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

Violation Base Penalty \$400

Four single events are recommended (one for each DMR).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$636

This violation Final Assessed Penalty (adjusted for limits) \$636

Economic Benefit Worksheet

Respondent City of Murchison
Case ID No. 41794
Reg. Ent. Reference No. RN101720530
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 | \$100 | 20-Aug-2010 | 13-Jun-2011 | 0.81 | \$4 | n/a | \$4 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$250 | 20-Aug-2010 | 14-Jan-2012 | 1.40 | \$18 | n/a | \$18 |

Notes for DELAYED costs

The estimated cost to submit the DMRs (\$25 per report). Date required is the date the first report was due and the final date is the date the reports were received. The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports. Date required is the date the first report was due and the final date is the estimated 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

\$350

TOTAL

\$22

Screening Date 8-Jun-2011

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PCW

Respondent City of Murchison

Policy Revision 2 (September 2002)

Case ID No. 41794

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101720530

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0013972001, Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, as documented during a record review conducted on May 23, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 0% |
| | Potential | | | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Harm | | | Percent |
|--------------|---------------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | | x | | | 10% |

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 280

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,590

This violation Final Assessed Penalty (adjusted for limits) \$1,590

Economic Benefit Worksheet

Respondent City of Murchison
Case ID No. 41794
Reg. Ent. Reference No. RN101720530
Media Water Quality
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|------|------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | \$50 | 1-Sep-2010 | 14-Jan-2012 | 1.37 | \$3 | n/a | \$3 |
| 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 to submit the annual sludge report for the monitoring period ending July 31, 2010. Date required is the date the report was due and the final date is the estimated date of compliance. The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished is included in the economic benefit for violation no. 2.

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

\$50

TOTAL

\$3

Effluent Limit Violation Table

Respondent City of Murchison
ID Number(s) TPDES Permit No. WQ0013972001; Case No. 41794
Docket Number 2011-0907-MWD-E
Enf. Coordinator Samuel Short

Corresponds to Violation Number: 1

EFFLUENT PARAMETER
Permit Limit

| <i>Month/Year</i> | TSS Daily Average Conc. | TSS Daily Average Loading | Daily Average Flow | Total Chlorine Residual Monthly Max. | | | |
|-------------------|-------------------------|---------------------------|--------------------|--------------------------------------|--|--|--|
| | 20 mg/L | 13 lb/dy | 0.08 MGD | 4 mg/L | | | |
| February 2010 | 21.25 | 20.7 | 0.088939 | c | | | |
| December 2010 | c | c | c | 5.5 | | | |

| <u>Name</u> | <u>Abbreviation</u> |
|--|---------------------|
| milligrams per liter | mg/L |
| pounds per day | lb/dy |
| millions gallons per day | MGD |
| total suspended solids maximum concentration | TSS max. Conc. |
| compliant | c |



| | | |
|----|------------|----------|
| 10 | 10/19/2007 | (623184) |
| 11 | 07/09/2007 | (623185) |
| 12 | 08/03/2007 | (623186) |
| 13 | 12/05/2006 | (623187) |
| 14 | 08/06/2007 | (623188) |
| 15 | 12/08/2006 | (623189) |
| 16 | 09/18/2007 | (623190) |
| 17 | 01/29/2007 | (623191) |
| 18 | 10/17/2007 | (623192) |
| 19 | 12/08/2006 | (623193) |
| 20 | 01/07/2008 | (623194) |
| 21 | 01/29/2007 | (623195) |
| 22 | 12/28/2007 | (623196) |
| 23 | 01/26/2007 | (623197) |
| 24 | 02/25/2008 | (636581) |
| 25 | 03/25/2008 | (638712) |
| 26 | 01/21/2008 | (674555) |
| 27 | 03/20/2008 | (674556) |
| 28 | 01/18/2008 | (674557) |
| 29 | 05/28/2008 | (680514) |
| 30 | 04/18/2008 | (692889) |
| 31 | 05/19/2008 | (692890) |
| 32 | 06/23/2008 | (714061) |
| 33 | 07/21/2008 | (714062) |
| 34 | 09/02/2008 | (714063) |
| 35 | 09/18/2008 | (714064) |
| 36 | 10/20/2008 | (730096) |
| 37 | 12/01/2008 | (730097) |
| 38 | 12/22/2008 | (730098) |
| 39 | 02/24/2009 | (753273) |
| 40 | 01/20/2009 | (753274) |
| 41 | 09/09/2009 | (759759) |
| 42 | 03/20/2009 | (770799) |
| 43 | 04/20/2009 | (770800) |
| 44 | 05/26/2009 | (770801) |
| 45 | 12/17/2009 | (785308) |
| 46 | 01/20/2010 | (787784) |
| 47 | 06/17/2009 | (812247) |
| 48 | 07/28/2009 | (812248) |
| 49 | 06/03/2011 | (921901) |

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

| | | | | |
|--------------|--|----------|-------------|--------------------------|
| Date: | 06/30/2006 | (525032) | CN600698187 | |
| 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 | (623187) | CN600698187 | |
| 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 | 08/03/2006 | (488860) | CN600698187 | |
| Self Report? | NO | | | Classification: Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) | | | |
| | 30 TAC Chapter 317 317.4(d) | | | |

Description: Failure to properly maintain the clarifier. The clarifier skimmer rake gearbox was observed to be inoperable.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.5(e)(1)

Description: Failure to maintain the sludge drying beds. The sludge drying beds were found to be in poor condition.

Self Report? NO Classification: Moderate

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

Description: Failure to prevent the discharge of sludge solids into the receiving water. An excess amount of sewage sludge was noted in the receiving water and gas bubbles and nitrification were noted which is an indication of an anaerobic environment.

Date 09/30/2006 (623191) CN600698187

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 (623194) CN600698187

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 04/04/2008 (638712) CN600698187

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(b)(1)

Description: Failure to maintain the bar screen as specified in TAC §305.125(a)(5).

Date 12/11/2009 (783511) CN600698187

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)(1)

Description: Failure to properly dispose of municipal solid waste at an authorized facility.

Date 02/28/2010 CN600698187

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 12/31/2010 CN600698187

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 MURCHISON
RN101720530**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0907-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 Murchison ("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 approximately 2,800 feet northeast of the intersection of Farm-to-Market Road 773 and County Road 1616, adjacent to County Road 1616 at the northeast edge of Murchison, Henderson 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 June 8, 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 Five Thousand Four Hundred Six Dollars (\$5,406) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid Four Thousand Three Hundred Twenty-Five Dollars (\$4,325) of the administrative penalty and One Thousand Eighty-One Dollars (\$1,081) 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 submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending July 31, 2010 through October 31, 2010 on June 13, 2011.
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:

1. Failed to comply with the 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 ("TPDES") Permit No. WQ0013972001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on May 23, 2011 and as shown in the table below:

| EFFLUENT PARAMETER | | | | |
|---------------------------|-------------------------|---------------------------|--------------------|--------------------------------------|
| Permit Limit | | | | |
| | TSS Daily Average Conc. | TSS Daily Average Loading | Daily Average Flow | Total Chlorine Residual Monthly Max. |
| Month/Year | 20 mg/L | 13 lb/dy | 0.08 MGD | 4 mg/L |
| February 2010 | 21.25 | 20.7 | 0.088939 | c |
| December 2010 | c | c | c | 5.5 |

| Name | Abbreviation |
|--------------------------|--------------|
| milligrams per liter | mg/L |
| pounds per day | lb/dy |
| millions gallons per day | MGD |
| total suspended solids | TSS |
| maximum | max. |
| concentration | Conc. |
| compliant | c |

2. Failed to timely submit DMRs for the monitoring periods ending July 31, 2010 through October 31, 2010, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0013972001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on May 23, 2011.
3. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013972001, Sludge Provisions as documented during a record review conducted on May 23, 2011.

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 Murchison, Docket No. 2011-0907-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 undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order:

i. Submit the annual sludge report for the monitoring period ending July 31, 2010 to:

Compliance Monitoring Section
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports, in accordance with TPDES Permit No. WQ0013972001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions.

b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013972001 and Ordering Provision Nos. 2.a.i and 2.a.ii, 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 include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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 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.

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.

City of Murchison
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

R. D. Hyle
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.

Mike Hill
Signature

9-12-11
Date

MIKE HILL
Name (Printed or typed)
Authorized Representative of
City of Murchison

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.