EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0915-MWD-E **TCEQ ID:** RN101919256 **CASE NO.:** 39812

RESPONDENT NAME: City of Deport

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Deport, located approximately 1,000 feet south of United States Highway 271 and 1,400 feet west of the intersection of Farm-to-Market Road 1149 and United States Highway 271, Lamar County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ___ **Yes** X **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 10, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: The Honorable Michael Francies, Mayor, City of Deport, P.O. Box 345A, Deport, Texas 75435-0401
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** May 24, 2010 **Date of NOV/NOE Relating to this Case:** May 28, 2010 (NOE) **Background Facts:** This was a records review. **WATER** Failed to comply with permitted effluent limitations for carbonaceous biochemical oxygen demand and pH [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010741001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].	**Total Assessed:** $11,600 **Total Deferred:** $2,320 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $285 (remaining $8,995 due in 35 monthly payments of $257 each) **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010741001, 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.

Additional ID No(s).: WQ0010741001

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	1-Jun-2010					
PCW	6-Aug-2010	**Screening**	3-Jun-2010	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	City of Deport		
Reg. Ent. Ref. No.	RN101919256		
Facility/Site Region	5-Tyler	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	39812	**No. of Violations**	1
Docket No.	2010-0915-MWD-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Thomas Jecha, P.G.
		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*: $4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 205.0% Enhancement — *Subtotals 2, 3, & 7*: $8,200

Notes: Enhancement for 39 self-reported effluent violations and five NOVs with dissimilar violations for this Facility within the past 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: $995
Approx. Cost of Compliance: $10,000
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $12,200

OTHER FACTORS AS JUSTICE MAY REQUIRE — -4.9% — *Adjustment*: -$600

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction so that monthly self-reported violations do not overly impact the penalty amount.

Final Penalty Amount: $11,600

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $11,600

DEFERRAL — 20.0% Reduction — *Adjustment*: -$2,320

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: $9,280

Screening Date 3-Jun-2010 **Docket No.** 2010-0915-MWD-E **PCW**

Respondent City of Deport *Policy Revision 2 (September 2002)*

Case ID No. 39812 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101919256

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

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*)	39	195%
	Other written NOVs	5	10%
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%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 205%

>> 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 39 self-reported effluent violations and five NOVs with dissimilar violations for this Facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 205%

Screening Date 3-Jun-2010 **Docket No.** 2010-0915-MWD-E **PCW**

Respondent City of Deport *Policy Revision 2 (September 2002)*

Case ID No. 39812 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101919256

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

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. WQ0010741001, Effluent Limitations and Monitoring Requirements No. 1 and 3.

Violation Description Failed to comply with permitted effluent limitations (see attached table).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			x
	Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. pH was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 4 — 245 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $4,000

Economic Benefit (EB) for this violation

Estimated EB Amount $995

Statutory Limit Test

Violation Final Penalty Total $11,600

This violation Final Assessed Penalty (adjusted for limits) $11,600

Economic Benefit Worksheet

Respondent City of Deport
Case ID No. 39812
Reg. Ent. Reference No. RN101919256
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	31-Mar-2009	27-Mar-2011	1.99	$995	n/a	$995
Notes for DELAYED costs	Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. The date required is the month the first non-compliant excursion was documented and 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 $995

Effluent Limit Violation Table

a rev.

Respondent	City of Deport
ID Number(s)	TPDES Permit No. WQ0010741001
Docket Number	2010-0915-MWD-E
Enf. Coordinator	Thomas E. Jecha

Corresponds to Violation Number: 1

	EFFLUENT PARAMETER											
	Permit Limit											
	CBOD5 daily avg conc (mg/L)	CBOD5 daily avg loading (lbs/day)	pH max (s.u.)									
Month/Year	30	46	9									
3/31/2009	c	c	9.2									
4/30/2009	30.6	c	10.9									
6/30/2009	c	c	9.9									
7/31/2009	c	c	10.1									
8/31/2009	c	c	10.3									
9/30/2009	c	c	9.6									
12/31/2009	c	66.8	c									
1/31/2010	32	73.6	c									

mg/L = milligrams per liter

lbs/day = pounds per day

c = compliant

avg = average

CBOD5 = 5-day carbonaceous biochemical oxygen demand

s.u. = standard units

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600679914	City of Deport	Classification: AVERAGE	Rating: 2.62
Regulated Entity:	RN101919256	CITY OF DEPORT	Classification: AVERAGE	SiteRating:1.86
ID Number(s):	WASTEWATER	PERMIT		WQ0010741001
	WASTEWATER	PERMIT		TPDES0054721
	WASTEWATER	PERMIT		TX0054721
	WASTEWATER LICENSING	LICENSE		WQ0010741001
Location:	approx 1,000 ft S of US Hwy 271 & 1,400 ft W of intersect of FM Road 1149 & US Hwy 271, Lamar Co., Tx			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	June 02, 2010			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	June 02, 2005 to June 02, 2010			

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

Name: Thomas Jecha Phone: 239 - 2576

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	07/07/2005	(395644)
2	07/22/2005	(443449)
3	08/15/2005	(443450)
4	09/26/2005	(443446)
5	09/26/2005	(443447)
6	09/26/2005	(443448)
7	09/26/2005	(443451)
8	12/12/2005	(439831)
9	12/21/2005	(473325)
10	12/21/2005	(473326)
11	01/30/2006	(473327)
12	02/21/2006	(496992)
13	02/22/2006	(456391)
14	03/08/2006	(473324)
15	04/05/2006	(473320)
16	04/05/2006	(473322)

17 04/17/2006 (473323)
18 08/02/2006 (523735)
19 09/14/2006 (523736)
20 09/14/2006 (523737)
21 09/18/2006 (531018)
22 10/23/2006 (581970)
23 10/23/2006 (581971)
24 10/23/2006 (581972)
25 11/29/2006 (581973)
26 12/20/2006 (581974)
27 01/29/2007 (581975)
28 04/20/2007 (581965)
29 04/20/2007 (581966)
30 05/07/2007 (593279)
31 05/30/2007 (581967)
32 06/26/2007 (581968)
33 06/26/2007 (581969)
34 07/25/2007 (603454)
35 09/27/2007 (603455)
36 10/17/2007 (621907)
37 11/13/2007 (635957)
38 11/16/2007 (621906)
39 11/19/2007 (621908)
40 12/27/2007 (621909)
41 03/05/2008 (673833)
42 03/17/2008 (673835)
43 03/27/2008 (673834)
44 04/22/2008 (692073)
45 05/21/2008 (692074)
46 06/26/2008 (713139)
47 07/28/2008 (713140)
48 09/28/2008 (713143)
49 10/29/2008 (713141)
50 10/29/2008 (713142)
51 11/18/2008 (729282)
52 12/15/2008 (729283)
53 01/20/2009 (752489)
54 02/27/2009 (752488)
55 03/30/2009 (740205)
56 04/13/2009 (770129)
57 05/04/2009 (809972)
58 05/22/2009 (770130)
59 06/22/2009 (809973)
60 07/20/2009 (809974)
61 08/13/2009 (809975)
62 09/21/2009 (809976)
63 11/04/2009 (809977)
64 11/30/2009 (809978)
65 01/11/2010 (809979)
66 01/25/2010 (809980)
67 02/22/2010 (809971)
68 05/28/2010 (824243)

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

Date: 06/30/2005 (443449) CN600679914

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 07/31/2005 (443450) CN600679914

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 08/31/2005 (443451) CN600679914

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 10/31/2005 (473325) CN600679914

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date 11/30/2005 (473326) CN600679914

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 12/15/2005 (439831) CN600679914

Self Report? NO Classification: Moderate

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

Description: Failure to properly maintain the effluent flow meter.

Date 12/31/2005 (473327) CN600679914

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date 01/31/2006 (473320) CN600679914

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date 02/21/2006 (496992) CN600679914

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 03/31/2006 (473323) CN600679914

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date 04/30/2006 (523735) CN600679914

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 05/31/2006 (523736) CN600679914
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 (523737) CN600679914
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 (581970) CN600679914
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 08/31/2006 (581971) CN600679914
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 09/18/2006 (531018) CN600679914
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 11/30/2006 (581974) CN600679914
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 (581967) CN600679914
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2007 (581968) CN600679914
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 05/07/2007 (593279) CN600679914
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Date 05/31/2007 (581969) CN600679914
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 (603454) CN600679914
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 (603455) CN600679914
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 (621908) CN600679914
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 11/13/2007 (635957) CN600679914
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 11/30/2007 (621909) CN600679914
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 (673833) CN600679914
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 02/29/2008 (673834) CN600679914
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 05/31/2008 (713139) CN600679914
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 06/30/2008 (713140) CN600679914
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 07/31/2008 (713141) CN600679914
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 08/31/2008 (713142) CN600679914
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 11/30/2008 (729283) CN600679914
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2008 (752489) CN600679914
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 02/28/2009 (770129) CN600679914
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 03/31/2009 (809972) CN600679914
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2009 (770130) CN600679914
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 06/30/2009 (809974) CN600679914
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 07/31/2009 (809975) CN600679914
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 08/31/2009 (809976) CN600679914
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 09/30/2009 (809977) CN600679914
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 12/31/2009 (809980) CN600679914
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 01/31/2010 (809971) CN600679914
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Date 03/31/2010 CN600679914
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 DEPORT RN101919256	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-0915-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 Deport ("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 plant located approximately 1,000 feet south of United States Highway 271 and 1,400 feet west of the intersection of Farm-to-Market Road 1149 and United States Highway 271 in Lamar 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 2, 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 Eleven Thousand Six Hundred Dollars ($11,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Eighty-Five Dollars ($285) of the administrative penalty and Two Thousand Three Hundred Twenty Dollars ($2,320) 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.

   The remaining amount of Eight Thousand Nine Hundred Ninety-Five Dollars ($8,995) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Fifty-Seven Dollars ($257) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations, as documented below, 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. WQ0010741001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on May 24, 2010.

	CBOD5 daily avg conc (mg/L)	CBOD5 daily avg loading (lbs/day)	pH max (s.u.)
Month/Year	30	46	9
3/31/2009	c	c	9.2
4/30/2009	30.6	c	10.9
6/30/2009	c	c	9.9
7/31/2009	c	c	10.1
8/31/2009	c	c	10.3
9/30/2009	c	c	9.6
12/31/2009	c	66.8	c
1/31/2010	32	73.6	c

mg/L = milligrams per liter
lbs/day = pounds per day
c = compliant
CBOD5 = 5-day carbonaceous biochemical oxygen demand
s.u. = standard units
avg = average

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 Deport, Docket No. 2010-0915-MWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010741001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the

information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 12/16/2010
For the Executive Director 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.

_____ November 4, 2010
Signature Date

Mike Francies Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Deport

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.