

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1391-MWD-E **TCEQ ID:** RN103913935 **CASE NO.:** 40252  
**RESPONDENT NAME:** City of Refugio

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Refugio, located 1 mile east of United States Highway 77 and 0.75 mile south of Farm-to-Market Road 774, Refugio, Refugio County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant with an associated collection system</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on June 29, 2010, alleging that the Respondent failed to prevent an unauthorized discharge. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 10, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Ray Jaso, Mayor, City of Refugio, P.O. Box 1020, Refugio, Texas 78377  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> June 29, 2010</p> <p><b>Date of Investigation Relating to this Case:</b> July 1, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 4, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failed to prevent an unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, a concrete obstruction in the main line caused an unknown amount of wastewater to be discharged from a sewer clean-out located at the 700 block of North Alamo Street and a manhole at the intersection of North Alamo Street and West Fannin Street on June 29, July 2, and July 8, 2010 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010255001 Permit Conditions 2.g.]</p>	<p><b>Total Assessed:</b> \$2,425</p> <p><b>Total Deferred:</b> \$485  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,940</p> <p><b>Compliance History Classifications:</b>                      Person/CN - Average                      Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the site of the unauthorized discharges:</p> <p>a. Hired a third-party contractor to use vacuum trucks to remove wastewater from the site of the unauthorized discharges that occurred on June 29, July 2, and July 8, 2010, and;</p> <p>b. Replaced the collapsed cement wastewater main by July 16, 2010.</p>

Additional ID No(s): WQ0010255001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	9-Aug-2010	<b>Screening</b>	17-Aug-2010	<b>EPA Due</b>	
	<b>PCW</b>	17-Aug-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Refugio		
<b>Reg. Ent. Ref. No.</b>	RN103913935		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40252	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1391-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jeremy Escobar
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	22.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$550

Notes: Enhancement for four NOV's with same/similar violations and one NOV for dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$625
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
<small>Total EB Amounts</small>	\$175	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$75,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,425
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			

Notes:

<b>Final Penalty Amount</b>	\$2,425
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,425
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$485
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$1,940
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Screening Date 17-Aug-2010

Docket No. 2010-1391-MWD-E

PCW

Respondent City of Refugio

Policy Revision 2 (September 2002)

Case ID No. 40252

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103913935

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

### 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> )	4	20%
	Other written NOVs	1	2%
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%

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) 22%

#### >> 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 four NOVs with same/similar violations and one NOV for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 17-Aug-2010

Docket No. 2010-1391-MWD-E

PCW

Respondent City of Refugio

Policy Revision 2 (September 2002)

Case ID No. 40252

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103913935

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010255001 Permit Conditions 2.g.

Violation Description Failed to prevent an unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, a concrete obstruction in the main line caused an unknown amount of wastewater to be discharged from a sewer clean-out located at the 700 block of North Alamo Street and a manhole at the intersection of North Alamo Street and West Fannin Street on June 29, July 2, and July 8, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 17 Number of violation days

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

Violation Base Penalty \$2,500

One monthly event is recommended for the period from June 29, 2010 (date the discharge began) through July 16, 2010 (date of compliance).

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent completed repair of the collapsed sewer line on July 16, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$175

Violation Final Penalty Total \$2,425

This violation Final Assessed Penalty (adjusted for limits) \$2,425

# Economic Benefit Worksheet

**Respondent** City of Refugio  
**Case ID No.** 40252  
**Reg. Ent. Reference No.** RN103913935  
**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)	\$75,000	29-Jun-2010	16-Jul-2010	0.05	\$175	n/a	\$175

#### Notes for DELAYED costs

Estimated cost provided by the Respondent includes labor, equipment, and vacuum trucks to remove wastewater from the site of unauthorized discharges, and the cost to replace the collapsed concrete sewer main. The date required is the date the discharge began. The 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

\$75,000

**TOTAL**

\$175

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600624225	City of Refugio	Classification: AVERAGE	Rating: 3.29
Regulated Entity:	RN103913935	CITY OF REFUGIO	Classification: AVERAGE	Site Rating: 4.13
ID Number(s):	WASTEWATER LICENSING	LICENSE		WQ0010255001
	WASTEWATER	PERMIT		WQ0010255001
	WASTEWATER	EPA ID		TX0032492
Location:	1MILE EAST OF US HIGHWAY 77 AND 0.75 MILE SOUTH OF FARM-TO-MARKET ROAD 774, REFUGIO COUNTY, TEXAS			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	October 04, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 17, 2005 to August 17, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jeremy Escobar	Phone:	(361) 825-3422	

## 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	04/18/2007	(554604)
2	06/20/2007	(563676)
3	09/19/2007	(594125)
4	05/08/2008	(650610)
5	08/26/2009	(746707)
6	08/26/2009	(761155)
7	05/20/2010	(794992)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/18/2007 (554604)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Sludge Prov. Sect. II. F. OP Failure to report annually to the TCEQ Regional Office (MC Region 14) and the Water Quality Compliance Monitoring Team of the Enforcement Division, by September 1 of each year the following information: items 1-17 on pages 19-20.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.3		
Description:	Operational Requirements 1. (page 9) OP Failure to at all times ensure that the collection system and lift stations are		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements 1. (page 9) OP		
Description:	Failure to at all times ensure that the aeration basin is properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting 3.a. (page 4) OP		
Description:	Failure to ensure monitoring samples and measurements are taken at times and in a		

manner so as to be representative of the monitored activity.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.6  
30 TAC Chapter 319, SubChapter A 319.9(c)  
Description: Failure to assure the quality of all measurements through the use of blanks, standards, duplicate analyses, and spikes utilizing at a minimum, the quality assurance requirements specified in Table 3 in chapter 319.9 of this title (relating to Self-Monitoring and Quality Assurance Schedules) for dissolved oxygen.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Other Requirements 6. (page 24) OP  
Description: Failure to submit the results of the soil sample analyses with a map showing the location of the soil samples to the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division and the Region Office (MC Region 14) during September of each year.

Date: 05/08/2008 (650610) CN600624225

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations No. 1, Pg. 2 PERMIT  
Description: Failure to comply with the effluent limitations as specified in the permit.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Other Requirements No. 6, Pg. 24 PERMIT  
Description: Failure to monitor the soil-sludge mixture as required in the permit for the application of Class "B" sludge to 10 acres of the permittee's property located adjacent to the wastewater treatment plant site.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations No. 4, Pg. 2 PERMIT  
Description: Failure to prevent the discharge of floating solids or visible foam in other than trace amounts.

Date: 08/26/2009 (761155) CN600624225

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Other Requirements No. 6, Pg. 24 PERMIT  
Description: Failure to monitor the soil-sludge mixture as required in the permit for the application of Class "B" sludge to 10 acres of the permittee's property located adjacent to the wastewater treatment plant site.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements; No. 1, Pg. 9 PERMIT  
Description: Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations; No. 1, Pg. 2 PERMIT  
Description: Failure to comply with the single grab effluent limitation for Total Suspended Solids (TSS) as specified in the permit.

Date: 10/13/2009 (777725)

Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Page 2 of 3

30 TAC Chapter 305, SubChapter F 305.125(1)  
Permit Conditions; No. 2g, Pg. 7 PERMIT  
Description: Failure to prevent the discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Operational Requirements; No. 1, Pg. 9 PERMIT  
Description: Failure to properly operate and maintain the Heard and Heard lift station located at the intersection of Highway 77 and East Vance Street.

Date: 05/20/2010 (794992) CN600624225

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Other Requirements No. 6, Pg. 24 PERMIT

Description:	Failure to monitor the soil-sludge mixture as required in the permit for the application of Class "B" sludge to 10 acres of the permittee's property located adjacent to the wastewater treatment plant site.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations; No. 1, Pg. 2 PERMIT	
Description:	Failure to comply with the single grab effluent limitation for Total Suspended Solids (TSS) as specified in the permit.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations; No. 1, Pg. 2 PERMIT	
Description:	Failure to comply with the effluent limitations (TSS and Ammonia Nitrogen) as specified in the permit.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Reporting Requirement; No. 7.c., Pg. 6 PERMIT	
Description:	Failure to report any effluent violation which deviates from the permitted effluent limitation by more than 40% in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(d) Reporting Requirement; No. 1, Pg. 4 PERMIT	
Description:	Failure to submit the monthly effluent reports by the 20th day of the following month.	

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 REFUGIO  
RN103913935**

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

**AGREED ORDER  
DOCKET NO. 2010-1391-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 Refugio ("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 with an associated collection system with a residential clean-out line located at the 700 block of North Alamo and a manhole located at the intersection of North Alamo Street and West Fannin Street in Refugio County, Texas (the "Facility").
2. The Respondent has discharged sewage 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 August 9, 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 Two Thousand Four Hundred Twenty-Five Dollars (\$2,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Nine Hundred Forty

Dollars (\$1,940) of the administrative penalty and Four Hundred Eighty-Five Dollars (\$485) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the site of the unauthorized discharges:
  - a. Hired a third-party contractor to use vacuum trucks to remove wastewater from the site of the unauthorized discharges that occurred on June 29, July 2, and July 8, 2010, and;
  - b. Replaced the collapsed cement wastewater main by July 16, 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 prevent an unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010255001 Permit Conditions 2.g., as documented during an investigation conducted on July 1, 2010. Specifically, a concrete obstruction in the main line caused an unknown amount of wastewater to be discharged from a sewer clean-out located at the 700 block of North Alamo Street and a manhole at the intersection of North Alamo Street and West Fannin Street on June 29, July 2, and July 8, 2010.

### 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 Refugio, Docket No. 2010-1391-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

\_\_\_\_\_  
Date 12/16/2010

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

\_\_\_\_\_  
Date 11-3-10

Ray Jaso

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Refugio

\_\_\_\_\_  
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.