

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2010-1594-MWD-E **TCEQ ID:** RN101614014 **CASE NO.:** 40464  
**RESPONDENT NAME:** City of Center

<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> East Bank Plant, located approximately 3,000 feet southwest of the intersection of Farm-to-Market Road 2788 and State Highway 7, Shelby County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 3, 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. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable David Chadwick, Mayor Pro Tem, City of Center, P.O. Box 1744, Center, Texas 75935  Mr. Chad Nehring, City Manager, City of Center, P.O. Box 1744, Center, Texas 75935  <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 type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 10, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 5, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>1) Failed to comply with the permitted effluent limits for Mercury and Zinc [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010063003, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009. Specifically, the annual sludge report was due by September 1, 2009 and was not submitted until January 19, 2010 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010063003, Sludge Provisions].</p> <p>3) Failed to timely submit the quarterly biomonitoring reports for toxicity for the monitoring periods ending June 30, 2009 and September 30, 2009. Specifically, the reports were due July 20, 2009 and October 20, 2009 and were not submitted until January 19, 2010 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010063003, Biomonitoring Requirements No. 3.b(3)].</p>	<p><b>Total Assessed:</b> \$8,692</p> <p><b>Total Deferred:</b> \$1,738  <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> \$6,954</p> <p><b>Compliance History Classifications:</b>                      Person/CN - Average                      Site/RN - Average</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Conduct an evaluation of the Facility and the associated collection system to evaluate the cause of, and necessary corrective actions designed to prevent, effluent violations. Based upon the evaluation, develop and implement a plan and schedule for the completion of necessary corrective actions not to exceed 120 days; and</p> <p>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 annual sludge reports and toxicity reports.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a.i. and a.ii.;</p> <p>c. Within 165 days after the effective date of this Agreed Order, submit written certification of completion of the corrective actions designed to prevent effluent violations, as prescribed by the evaluation required by Ordering Provision a.i.; and</p> <p>d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0010063003



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	20-Sep-2010	<b>Screening</b>	27-Sep-2010	<b>EPA Due</b>	5-Mar-2010
	<b>PCW</b>	1-Oct-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Center				
<b>Reg. Ent. Ref. No.</b>	RN101614014				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40464	<b>No. of Violations</b>	3
<b>Docket No.</b>	2010-1594-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>	Samuel Short
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$5,300**

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

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

**Compliance History** **67.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,551**

**Notes** Enhancement for nine months of self-reported effluent violations, four NOV with same/similar violations, one NOV with dissimilar violations 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 **\$815**  
 Approx. Cost of Compliance **\$7,450**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$8,851**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **-1.8%** **Adjustment** **-\$159**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended reduction to prevent double-enhancement of the penalty amount for same violations that were self-reported.

**Final Penalty Amount** **\$8,692**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$8,692**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,738**

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

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$6,954**

**Screening Date** 27-Sep-2010

**Docket No.** 2010-1594-MWD-E

**PCW**

**Respondent** City of Center

Policy Revision 2 (September 2002)

**Case ID No.** 40464

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101614014

**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> )	13	65%
	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)** 67%

>> **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 nine months of self-reported effluent violations, four NOVs with same/similar violations, one NOV with dissimilar violations within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 67%

Screening Date 27-Sep-2010

Docket No. 2010-1594-MWD-E

PCW

Respondent City of Center

Policy Revision 2 (September 2002)

Case ID No. 40464

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614014

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. WQ0010063003, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limits, as documented during a record review conducted on December 10, 2009 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

62 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$788

Violation Final Penalty Total \$8,200

This violation Final Assessed Penalty (adjusted for limits) \$8,200

## Economic Benefit Worksheet

**Respondent** City of Center  
**Case ID No.** 40464  
**Req. Ent. Reference No.** RN101614014  
**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
<small>No commas or \$</small>							

### 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)	\$7,000	31-Mar-2009	1-Jul-2011	2.25	\$788	n/a	\$788

**Notes for DELAYED costs**

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater 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

\$7,000

**TOTAL**

\$788

**Screening Date** 27-Sep-2010  
**Respondent** City of Center  
**Case ID No.** 40464  
**Reg. Ent. Reference No.** RN101614014  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Samuel Short

**Docket No.** 2010-1594-MWD-E

**PCW**

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

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010063003, Sludge Provisions

**Violation Description**

Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009, as documented during a record review conducted on December 10, 2009. Specifically, the annual sludge report was due by September 1, 2009 and was not submitted until January 19, 2010.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1%"/>

Matrix Notes

At least 70% of the rule requirement was met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Center  
**Case ID No.** 40464  
**Req. Ent. Reference No.** RN101614014  
**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	1-Sep-2009	19-Jan-2010	0.38	\$2	n/a	\$2
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-Jul-2009	1-May-2011	1.78	\$22	n/a	\$22

**Notes for DELAYED costs**

Estimated amount required to submit the annual sludge report for the monitoring period ending July 31, 2009. Date Required is the date the report was due. Final Date is the date the annual sludge report was received. The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished. Date required is the date the first quarterly biomonitoring report for toxicity was due. 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

\$350

**TOTAL**

\$24

**Screening Date** 27-Sep-2010  
**Respondent** City of Center  
**Case ID No.** 40464  
**Reg. Ent. Reference No.** RN101614014  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Samuel Short

**Docket No.** 2010-1594-MWD-E

**PCW**

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

**Violation Number**   
**Rule Cite(s)**

30 Tex. Admin. Code §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010063003, Biomonitoring Requirements No. 3.b(3)

**Violation Description**

Failed to timely submit the quarterly biomonitoring reports for toxicity for the monitoring periods ending June 30, 2009 and September 30, 2009, as documented during a record review conducted on December 10, 2009. Specifically, the DMRs were due July 20, 2009 and October 20, 2009 and were not submitted until January 19, 2010.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
At least 70% of the rule requirement was met.					

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

**Violation Base Penalty**

Two single events are recommended.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Center  
**Case ID No.** 40464  
**Req. Ent. Reference No.** RN101614014  
**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
<i>No commas or \$</i>							

### 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-Jul-2009	19-Jan-2010	0.50	\$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 quarterly biomonitoring reports for toxicity (\$50 per report) for the monitoring periods ending June 30, 2009 and September 30, 2009. Date Required is the date the reports were due. Final Date is the date the reports were received. 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 \$100

**TOTAL** \$3

**Effluent Limit Violation Table**

<b>Respondent</b>	City of Center
<b>ID Number(s)</b>	TPDES Permit No. WQ0010063003; Case No. 40464
<b>Docket Number</b>	2010-1594-MWD-E
<b>Enf. Coordinator</b>	Samuel Short

**Corresponds to Violation Number:** 1

**EFFLUENT PARAMETER**

**Permit Limit**

	Mercury Daily Average Concentration	Mercury Daily Average Loading	Mercury Daily Max.	Zinc Daily Average Concentration	Zinc Daily Max.	Flow Two Hour Peak
<b>Month/Year</b>	0.0000279 mg/L	0.0004 lb/dy	0.000056 mg/L	0.0878 mg/L	.186 mg/L	3,056 gal/min
March 2009	0.00028	0.0018	0.00028	c	c	c
August 2009	0.00035	0.0024	0.0007	0.132	0.318	3,299

Name	Abbreviation
milligrams per liter	mg/L
gallons per minutes	gal/min
maximum	max.
pounds per day	lb/dy





18	02/15/2007	(537728)
19	02/22/2007	(585349)
20	03/22/2007	(585351)
21	04/05/2007	(593316)
22	04/26/2007	(585353)
23	05/21/2007	(585355)
24	06/22/2007	(585357)
25	06/22/2007	(585370)
26	07/24/2007	(585359)
27	08/21/2007	(608527)
28	09/19/2007	(608528)
29	10/22/2007	(608529)
30	11/13/2007	(597503)
31	11/14/2007	(623663)
32	12/26/2007	(623664)
33	02/21/2008	(674892)
34	03/24/2008	(674893)
35	04/23/2008	(674894)
36	05/19/2008	(693250)
37	06/25/2008	(693251)
38	07/22/2008	(693252)
39	08/21/2008	(714483)
40	09/25/2008	(714484)
41	10/24/2008	(714485)
42	11/17/2008	(730453)
43	12/05/2008	(730455)
44	12/24/2008	(730454)
45	02/25/2009	(753668)
46	03/25/2009	(753669)
47	04/24/2009	(753670)
48	05/12/2009	(771094)
49	05/26/2009	(771092)
50	06/12/2009	(771093)
51	08/24/2009	(813152)
52	09/04/2009	(765936)
53	09/10/2009	(762869)
54	09/24/2009	(813153)
55	11/24/2009	(813155)
56	12/23/2009	(813156)
57	01/07/2010	(785409)
58	01/19/2010	(813154)
59	01/22/2010	(813157)
60	02/25/2010	(813151)
61	03/02/2010	(833841)
62	03/02/2010	(861638)
63	03/17/2010	(795424)
64	03/19/2010	(833840)
65	04/20/2010	(798180)
66	05/25/2010	(833842)
67	06/01/2010	(827896)
68	06/02/2010	(824601)
69	06/23/2010	(847181)

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

Date: 09/30/2005 (585362)

CN600254270

Self Report? YES

Classification: Moderate

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

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2006 (585365)  
 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: 02/16/2007 (537728) CN600254270  
 Self Report? NO Classification Minor  
 Citation: OpR1 PERMIT  
 Description: Failure by the City of Center to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Minor  
 Citation: OpR1 PERMIT  
 Description: Failure by the City of Center to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Minor  
 Citation: OpR1 PERMIT  
 Description: Failure by the City of Center to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Moderate  
 Citation: PC2g PERMIT  
 Description: Failure by the City of Center to prevent unauthorized discharges into or adjacent to the waters of the state.

Self Report? NO Classification Minor  
 Citation: OpR1 PERMIT  
 Description: Failure by the City of Center to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 04/05/2007 (593316) CN600254270  
 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: 06/30/2007 (585359)  
 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: 11/30/2007 (623664) CN600254270  
 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 (674893) CN600254270  
 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 (714484)  
 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 (753670)  
 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 (813153)  
 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: 09/04/2009 (765936) CN600254270  
 Self Report? NO Classification Minor  
 Citation: OpR1 PERMIT  
 Description: Failure by the City of Center to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Minor  
 Citation: OpR1 PERMIT  
 Description: Failure by the City of Center to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Moderate  
 Citation: WQ10063-003 EL&MR Pg 2, No 1 PERMIT  
 Description: Failure by the City of Center (CC) to discharge effluent that is compliant with permitted limitations.

Self Report? NO Classification Minor  
 Citation: WQ10063-003 OpR No1, Pg 9 PERMIT  
 Description: Failure by the City of Center (CC) to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 WQ10063-003 OpR No 4, Pg 10 PERMIT  
 Description: Failure by the City of Center to maintain adequate safeguards to prevent discharge of untreated or inadequately treated wastes from the City of Center during electrical power failure.

Date: 10/31/2009 (813155)  
 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: 06/01/2010 (827896) CN600254270  
 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: 08/10/2010 (829688) CN600254270  
 Self Report? NO Classification Moderate  
 Citation: M&RR PERMIT  
 Description: Failure by the City of Center to notify the TCEQ Enforcement Division and the Beaumont Region 10 office of an unauthorized discharge, within 24 hours of becoming aware of the event.

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 CENTER  
RN101614014**

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

## **AGREED ORDER DOCKET NO. 2010-1594-MWD-E**

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

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Center ("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 3,000 feet southwest of the intersection of Farm-to-Market Road 2788 and State Highway 7 in Shelby 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 January 10, 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 Eight Thousand Six Hundred Ninety-Two Dollars (\$8,692) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Nine Hundred Fifty-Four Dollars (\$6,954) of the administrative penalty and One Thousand Seven Hundred Thirty-Eight Dollars (\$1,738) 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 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:

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. WQ0010063003, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on December 10, 2009, and shown in the table below:

**EFFLUENT PARAMETER**

***Permit Limit***

	Mercury Daily Average Concentration	Mercury Daily Average Loading	Mercury Daily Max.	Zinc Daily Average Concentration	Zinc Daily Max.	Flow Two Hour Peak
<b><i>Month/Year</i></b>	0.0000279 mg/L	0.0004 lb/dy	0.000056 mg/L	0.0878 mg/L	.186 mg/L	3,056 gal/min
March 2009	0.00028	0.0018	0.00028	c	c	c
August 2009	0.00035	0.0024	0.0007	0.132	0.318	3,299

<u>Name</u>	<u>Abbreviation</u>
milligrams per liter	mg/L
gallons per minutes	gal/min
maximum	max.
pounds per day	lb/dy

2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010063003, Sludge Provisions, as documented during a record review conducted on December 10, 2009. Specifically, the annual sludge report was due by September 1, 2009 and was not submitted until January 19, 2010.
  
3. Failed to timely submit the quarterly biomonitoring reports for toxicity for the monitoring periods ending June 30, 2009 and September 30, 2009, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010063003, Biomonitoring Requirements No. 3.b(3) as documented during a record review conducted on December 10, 2009. Specifically, the reports were due July 20, 2009 and October 20, 2009 and were not submitted until January 19, 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 Center, Docket No. 2010-1594-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. Conduct an evaluation of the Facility and the associated collection system to evaluate the cause of, and necessary corrective actions designed to prevent, effluent violations. Based upon the evaluation, develop and implement a plan and schedule for the completion of necessary corrective actions not to exceed 120 days; 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 annual sludge reports and toxicity reports, in accordance with TPDES Permit No. WQ0010063003, Sludge Provisions and Biomonitoring Requirements No. 3.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i and 2.a.ii, as described in Ordering Provision No. 2.d;
  - c. Within 165 days after the effective date of this Agreed Order, submit written certification of completion of the corrective actions designed to prevent effluent violations, as prescribed by the evaluation required by Ordering Provision No. 2.a.i, and, as described in ordering provision 2.d; and
  - d. 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  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 12/21/2010

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 10-25-10

David Chadwick  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Center

Mayor Pro Tem  
\_\_\_\_\_  
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.