

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0523-MWD-E **TCEQ ID:** RN101721553 **CASE NO.:** 39440
RESPONDENT NAME: City of Alvin

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Alvin, approximately 3,000 feet west of the intersection of County Roads 160 and 158, and approximately 3.5 miles northeast of the intersection of State Highway 35 and Farm-to-Market Road 2917, south of Alvin, Brazoria County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 13, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Paul Horn, City Manager, City of Alvin, 216 West Sealy Street, Alvin, Texas 77511-2341 The Honorable Gary Appelt, Mayor, City of Alvin, 216 West Sealy Street, Alvin, Texas 77511-2341 Respondent's Attorney: Mr. James Parker, Knight & Partners, Executive Office Terrace, 223 West Anderson Lane, Suite A-105, Austin, Texas 78752</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 10, 2010</p> <p>Date of NOV/NOE Relating to this Case: March 14, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failed to comply with the permitted effluent limitations for carbonaceous biochemical oxygen demand, ammonia nitrogen, total suspended solids, E. coli, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010005001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending August 31, 2009 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010005001, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failed to timely submit the biomonitoring DMRs for the monitoring periods ending June 30, 2009, September 30, 2009, and December 31, 2009 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010005001, Biomonitoring Requirements Nos. 3.b(2) and 3.b(3)].</p>	<p>Total Assessed: \$68,160</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$68,160</p> <p>Compliance History Classification: Person/CN – Average Site/RN – Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By March 31, 2010, submitted the DMR for toxicity for the semiannual monitoring period ending December 31, 2009;</p> <p>b. By April 1, 2010, submitted the DMRs for toxicity for the quarterly monitoring periods ending June 30, 2009, September 30, 2009, and December 31, 2009; and</p> <p>c. By April 9, 2010, submitted the DMR for the monitoring period ending August 31, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and toxicity DMRs;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a;</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010005001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including</p>

RESPONDENT NAME: City of Alvin
DOCKET NO.: 2010-0523-MWD-E

Page 3 of 3

		photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.
--	--	--

Additional ID No(s): WQ0010005001



Penalty Calculation Worksheet (PCW)

DATES	Assigned	22-Mar-2010	Screening	1-Apr-2010	EPA Due	5-Jun-2009
	PCW	2-Apr-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Alvin
Reg. Ent. Ref. No.	RN101721553
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39440	No. of Violations	4
Docket No.	2010-0523-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit	Minimum <input type="text" value="\$0"/> Maximum <input type="text" value="\$10,000"/>		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1*

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement *Subtotals 2, 3, & 7*

Notes

Culpability Enhancement *Subtotal 4*

Notes

Good Faith Effort to Comply Total Adjustments *Subtotal 5*

Economic Benefit Enhancement *Subtotal 6*

Total EB Amounts	\$287,558	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$250,375	

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL Reduction *Adjustment*

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

Notes

PAYABLE PENALTY

Screening Date 1-Apr-2010

Docket No. 2010-0523-MWD-E

PCW

Respondent: City of Alvin

Policy Revision 2 (September 2002)

Case ID No. 39440

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101721553

Media [Statute] Water Quality

Enf. Coordinator JR Cao

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)	18	90%
	Other written NOVs	1	2%
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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 92%

>> 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

The penalty is enhanced due to 17 self-reported monthly effluent violations, one NOV with a similar violation, and one NOV with unrelated violations to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 92%

Screening Date: 1-Apr-2010

Docket No.: 2010-0523-MWD-E

PCW

Respondent: City of Alvin

Policy Revision 2 (September 2002)

Case ID No.: 39440

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101721553

Media [Statute]: Water Quality

Enf. Coordinator: JR Cao

Violation Number: []

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. WQ0010005001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description:

Failed to comply with the permitted effluent limitations, as documented during a record review on February 10, 2010, and as shown in the attached violation table.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	X			100%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

A simplified model and site specific modeling were used to evaluate carbonaceous biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids, E. coli, and flow were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed protective levels.

Adjustment: \$0

\$10,000

Violation Events

Number of Violation Events: 3. Number of violation days: 92

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

Violation Base Penalty: \$30,000

Three monthly events are recommended for the months of October 2009, November 2009, and December 2009.

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: \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$287,534

Violation Final Penalty Total: \$57,600

This violation Final Assessed Penalty (adjusted for limits): \$57,600

Economic Benefit Worksheet

Respondent: City of Alvin
Case ID No.: 39440
Reg. Ent. Reference No.: RN101721553
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 comment on \$							

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$250,000	28-Feb-2009	31-Mar-2011	3.00	\$37,534	\$250,000	\$287,534
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated one-time cost to bring in temporary work-around treatment capability. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Approx. Cost of Compliance

\$250,000

TOTAL

\$287,534

Screening Date 1-Apr-2010

Docket No. 2010-0523-MWD-E

PCW

Respondent City of Alvin

Policy Revision 2 (September 2002)

Case ID No. 39440

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101721553

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010005001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on February 10, 2010, and as shown in the attached violation table.

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

A simplified model was used to evaluate carbonaceous biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. E. coli and flow were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 119 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 for the quarters containing the months of February 2009, April 2009, June 2009, and July 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$9,600

This violation Final Assessed Penalty (adjusted for limits) \$9,600

Economic Benefit Worksheet

Respondent: City of Alvin
Case ID No.: 39440
Reg. Ent. Reference No.: RN101721553
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

Avoided cost for this violation is included with violation no. 1.

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 1-Apr-2010

Docket No. 2010-0523-MWD-E

PCW

Respondent City of Alvin

Policy Revision 2 (September 2002)

Case ID No. 39440

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101721553

Media: [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010005001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending August 31, 2009, by the 20th day of the following month, as documented during a record review on February 10, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

At least 70% of permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

143 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$192

This violation Final Assessed Penalty (adjusted for limits) \$192

Economic Benefit Worksheet

Respondent: City of Alvin
Case ID No.: 39440
Reg. Ent. Reference No.: RN101721653
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$125	20-Jul-2009	1-Apr-2010	0.70	\$0	\$6	\$6
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	\$250	20-Jul-2009	29-Oct-2010	1.28	\$16	n/a	\$16
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 DMR, and the cost of training Facility personnel to ensure that all reports are submitted timely and complete. Date required is the date the first DMR was due. Final dates are the date the first DMR was submitted, and the date training is expected to be completed, respectively.

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

\$375

TOTAL

\$22

Screening Date 1-Apr-2010

Docket No. 2010-0523-MWD-E

PCW

Respondent: City of Alvin

Policy Revision 2 (September 2002)

Case ID No. 39440

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101721553

Media [Statute] Water Quality

Enf. Coordinator: JR Cao

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010005001, Biomonitoring Requirements Nos. 3.b(2) and 3.b(3)

Violation Description

Failed to timely submit the DMRs for toxicity for the quarterly monitoring periods ending June 30, 2009, September 30, 2009, and December 31, 2009; and for the semiannual monitoring period ending December 31, 2009, by the 20th day of the following month, as documented during a record review on February 10, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 70% of permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 4

143 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$400

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

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$768

This violation Final Assessed Penalty (adjusted for limits) \$768

Economic Benefit Worksheet

Respondent: City of Alvin
Case ID No.: 39440
Reg. Ent. Reference No.: RN101721553
Media: Water Quality
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
Notes for DELAYED costs							

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Economic benefit for this violation is included with violation no. 3.

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
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: \$0
TOTAL \$0

EFFLUENT VIOLATION TABLE

City of Alvin
 TPDES Permit No. WQ0010005001
 Docket No. 2010-0523-MWD-E

	Months						
	2/28/2009	4/30/2009	6/30/2009	7/31/2009	10/31/2009	11/30/2009	12/31/2009
CBOD Daily Avg. Conc. Limit = 10 mg/L	c	c	c	c	23.20	27.59	34.33
CBOD Daily Max. Conc. Limit = 25 mg/L	25.33	38.40	c	c	72.30	59.70	72.90
NH₃N Daily Avg. Conc. Limit = 2 mg/L	c	c	c	2.06	18.26	14.82	12.27
NH₃N Daily Max. Conc. Limit = 7 mg/L	c	c	c	7.30	32.00	17.00	32.00
NH₃N Daily Avg. Loading Limit = 83 lbs/day	c	c	c	c	152.86	123.58	130.34
TSS Daily Avg. Conc. Limit = 15 mg/L	c	c	c	c	c	24.20	40.36
TSS Daily Max. Conc. Limit = 40 mg/L	c	c	c	c	96.00	61.00	97.00
E. coli Daily Avg. Conc. Limit = 126 CFU/100 mL	c	546.20	868.00	c	1,281.00	c	1,026.00
E. coli Daily Max. Conc. Limit = 394 CFU/100mL	c	2,420.00	c	c	4,840.00	c	4,840.00
Flow 2-Hour Peak Limit = 10,417 gal/min	c	10,746	c	c	11,048	c	c

CBOD = carbonaceous biochemical oxygen demand

NH₃N = ammonia nitrogen

TSS = total suspended solids

mg/L = milligrams per liter

lbs/day = pounds per day

conc. = concentration

mL = milliliter

c = compliant

avg. = average

max. = maximum

gal/min = gallons per minute

E. = Escherichia

CFU = colony forming units

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600549133	City of Alvin	Classification: AVERAGE	Rating: 2.76
Regulated Entity:	RN101721553	CITY OF ALVIN	Classification: AVERAGE	Site Rating: 0.58
ID Number(s):	WASTEWATER	PERMIT	WQ0010005001	
	WASTEWATER	PERMIT	TPDES0024554	
	WASTEWATER	PERMIT	TX0024554	
	WASTEWATER LICENSING	LICENSE	WQ0010005001	
Location:	APPROXIMATELY 3,000 FEET WEST OF THE INTERSECTION OF COUNTY ROADS 160 AND 158, AND APPROXIMATELY 3.5 MILES NORTHEAST OF THE INTERSECTION OF STATE HIGHWAY 35 AND FARM-TO-MARKET ROAD 2917, SOUTH OF ALVIN IN BRAZORIA COUNTY, TEXAS			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	March 24, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 24, 2005 to March 24, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	JR Cao	Phone:	512 - 239 - 2543	

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	05/16/2005	(339805)	27	09/10/2007	(607858)
2	07/22/2005	(441802)	28	10/10/2007	(607859)
3	07/22/2005	(441803)	29	10/29/2007	(607860)
4	10/17/2005	(470395)	30	11/12/2007	(620565)
5	11/21/2005	(470396)	31	11/19/2007	(599178)
6	11/21/2005	(470397)	32	12/10/2007	(620566)
7	02/17/2006	(470391)	33	02/14/2008	(672825)
8	03/22/2006	(470392)	34	03/17/2008	(672826)
9	03/28/2006	(470394)	35	04/14/2008	(672827)
10	04/17/2006	(470393)	36	05/14/2008	(690855)
11	05/15/2006	(499466)	37	05/14/2008	(690858)
12	06/12/2006	(499467)	38	06/11/2008	(690856)
13	08/14/2006	(521534)	39	07/16/2008	(690857)
14	08/29/2006	(521537)	40	08/18/2008	(711737)
15	09/18/2006	(521535)	41	09/18/2008	(711736)
16	10/12/2006	(521536)	42	10/17/2008	(711739)
17	11/16/2006	(546100)	43	11/17/2008	(728205)
18	12/18/2006	(546101)	44	12/18/2008	(751178)
19	01/22/2007	(532790)	45	02/19/2009	(751175)
20	02/08/2007	(546099)	46	03/19/2009	(751176)
21	03/14/2007	(578082)	47	04/14/2009	(751177)
22	04/09/2007	(578083)	48	05/19/2009	(769014)
23	05/14/2007	(578084)	49	06/12/2009	(769015)

24	06/13/2007	(578085)	50	07/22/2009	(759805)
25	07/10/2007	(578086)	51	11/16/2009	(780183)
26	08/13/2007	(578087)	52	03/19/2010	(791812)

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

Date:	04/30/2006	(499466)	CN600549133
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:	12/31/2006	(521537)	CN600549133
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	(578086)	CN600549133
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2007	(578087)	CN600549133
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:	08/31/2007	(607858)	CN600549133
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:	03/31/2008	(672827)	CN600549133
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	(751178)	CN600549133
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	(690858)	CN600549133
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	(751176)	CN600549133
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	(769014)	CN600549133
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		CN600549133
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:	07/21/2009	(759805)	CN600549133
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to certify Reduced Pressure Zone backflow prevention device (RPZ) annually.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) WQ0010005001 PERMIT		
Description:	Failure to maintain the chlorine contact basin.		
Self Report?	NO		Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 wq0010005001 PERMIT
 Description: Failure to calibrate the flow meter annually.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ0010005001 PERMIT
 Description: Failure to collect composite samples as required.
 Date: 07/31/2009 CN600549133
 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: 10/31/2009 CN600549133
 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: 11/30/2009 CN600549133
 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 CN600549133
 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 CN600549133
 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: 02/28/2010 CN600549133
 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: 03/15/2010 (787996) CN600549133
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES PERMIT NO. WQ0010005001 OP
 TWC Chapter 26 26.121
 Description: Failure to prevent unauthorized discharges. Sanitary sewer overflows (SSOs) due to infiltration and inflow (I&I) are not authorized. Permittees with wet weather SSO problems within the collection system shall develop and implement a program to address all existing and potential sources of overflows. Any unauthorized discharge shall be reported by the permittee to the TCEQ Regional office by phone or fax within 24 hours, and in writing within 5 days.

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 ALVIN
RN101721553

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2010-0523-MWD-E

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 Alvin ("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, represented by Mr. James Parker of the law firm of Knight & Partners presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a domestic wastewater treatment system located approximately 3,000 feet west of the intersection of County Roads 160 and 158, and approximately 3.5 miles northeast of the intersection of State Highway 35 and Farm-to-Market Road 2917, south of Alvin in Brazoria County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on February 10, 2010, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports ("DMRs"):

EFFLUENT VIOLATION TABLE							
	Months						
	2/28/2009	4/30/2009	6/30/2009	7/31/2009	10/31/2009	11/30/2009	12/31/2009
CBOD Daily Avg. Conc. Limit = 10 mg/L	c	c	c	c	23.20	27.59	34.33
CBOD Daily Max. Conc. Limit = 25 mg/L	25.33	38.40	c	c	72.30	59.70	72.90
NH ₃ N Daily Avg. Conc. Limit = 2 mg/L	c	c	c	2.06	18.26	14.82	12.27
NH ₃ N Daily Max. Conc. Limit = 7 mg/L	c	c	c	7.30	32.00	17.00	32.00
NH ₃ N Daily Avg. Loading Limit = 83 lbs/day	c	c	c	c	152.86	123.58	130.34
TSS Daily Avg. Conc. Limit = 15 mg/L	c	c	c	c	c	24.20	40.36
TSS Daily Max. Conc. Limit = 40 mg/L	c	c	c	c	96.00	61.00	97.00
E. coli Daily Avg. Conc. Limit = 126 CFU/100 mL	c	546.20	868.00	c	1,281.00	c	1,026.00
E. coli Daily Max. Conc. Limit = 394 CFU/100 mL	c	2,420.00	c	c	4,840.00	c	4,840.00
Flow 2-Hour Peak Limit = 10,417 gal/min	c	10,746	c	c	11,048	c	c

CBOD = carbonaceous biochemical oxygen demand

NH₃N = ammonia nitrogen

TSS = total suspended solids

mg/L = milligrams per liter

lbs/day = pounds per day

conc. = concentration

mL = milliliter

c = compliant

avg. = average

max. = maximum

gal/min = gallons per minute

E. = Escherichia

CFU = colony forming units

4. During a record review on February 10, 2010, TCEQ staff documented that the Respondent did not timely submit the DMR for the monitoring period ending August 31, 2009, by the 20th day of the following month.

5. During a record review on February 10, 2010, TCEQ staff documented that the Respondent did not timely submit the DMRs for toxicity for the quarterly monitoring periods ending June 30, 2009, September 30, 2009, and December 31, 2009; and for the semiannual monitoring period ending December 31, 2009, by the 20th day of the following month.
6. The Respondent received notice of the violations on March 19, 2010.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By March 31, 2010, submitted the DMR for toxicity for the semiannual monitoring period ending December 31, 2009;
 - b. By April 1, 2010, submitted the DMRs for toxicity for the quarterly monitoring periods ending June 30, 2009, September 30, 2009, and December 31, 2009; and
 - c. By April 9, 2010, submitted the DMR for the monitoring period ending August 31, 2009.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the permitted effluent limitations, 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. WQ0010005001, Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the DMR for the monitoring period ending August 31, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010005001, Monitoring and Reporting Requirements No. 1.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to timely submit the biomonitoring DMRs for the monitoring periods ending June 30, 2009, September 30, 2009, and December 31, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010005001, Biomonitoring Requirements Nos. 3.b(2) and 3.b(3).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Sixty-Eight Thousand One Hundred Sixty Dollars (\$68,160) is justified by the facts recited in this Agreed Order, and considered in light of the

factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Sixty-Eight Thousand One Hundred Sixty Dollar (\$68,160) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Sixty-Eight Thousand One Hundred Sixty Dollars (\$68,160) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Alvin, Docket No. 2010-0523-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 Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and toxicity DMRs, in accordance with TPDES Permit No. WQ0010005001, Monitoring and Reporting Requirements No. 1, 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 No. 2.a, in accordance with Ordering Provision No. 2.d below;
 - c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010005001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations, in accordance with Ordering Provision No. 2.d below;

- d. The certification required by Ordering Provision Nos. 2.b and 2.c 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 12/21/2010

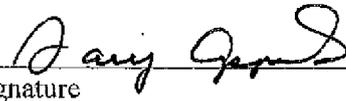
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Alvin. I am authorized to agree to the attached Agreed Order on behalf of the City of Alvin, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Alvin waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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 10/7/10

GARY APPELT

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

MAYOR, CITY OF ALVIN, TEXAS

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.

