

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO. 2009-1306-MWD-E RN102075553 CASE NO. 38154
RESPONDENT NAME: CITY OF OAKWOOD**

ORDER TYPE:		
<input checked="" type="checkbox"/> AGREED ORDER	<input 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 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

SITE WHERE VIOLATION OCCURRED: Approximately 1,600 feet south-southeast of the intersection of Farm-to-Market Road 831 and Farm-to-Market Road 542, southeast of Oakwood, Leon County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: Yes No N/A

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired January 24, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Marshall Coover, Litigation Division, MC 175, (512) 239-0620
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Steve Villatoro, Water Enforcement Section, MC 169, (512) 239-4930

TCEQ Regional Contact: Frank Burleson, Waco Regional Office, MC R-9, (254) 761- 3001

Respondent: The Honorable Vicki Stroud, Mayor, City of Oakwood, P. O. Box 96, Oakwood, Texas 75855

Respondent's Attorney: Not represented by counsel on this enforcement matter.

**RESPONDENT NAME: CITY OF OAKWOOD
DOCKET NO. 2009-1306-MWD-E**

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS 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 of Complaint: N/A</p> <p>Date of Investigation: July 15, 2010</p> <p>Date of NOE: July 21, 2010</p> <p>Background Facts: The EDRP was filed on March 12, 2010. Respondent filed an answer and the case was referred to SOAH. The Agreed Order was signed on November 17, 2010</p> <p>Current Compliance Status: Respondent is not yet in compliance.</p> <p>MWD: Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures [30 TEX. ADMIN CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010586002, Operational Requirements No. 4]</p>	<p>Total Assessed: \$5,375</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$575/\$4,800</p> <p>Respondent paid \$575 of the administrative penalty. The remaining amount of \$4,800 shall be payable in 12 monthly payments of \$400 each.</p> <p>Compliance History Classifications: Person/CN – Average Site/RN – Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions: Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 180 days, provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures 2. Within 195 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	27-Jul-2009	Screening	10-Aug-2009	EPA Due	
	PCW	2-Feb-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Oakwood		
Reg. Ent. Ref. No.	RN102075553		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38154	No. of Violations	1
Docket No.	2009-1306-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit	Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	115.0% Enhancement	Subtotals 2, 3, & 7	\$2,875
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Notes: The penalty is enhanced due to 45 self-reported monthly effluent violations, one NOV with same/similar violations to those cited in this action, and one agreed order with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,237
 Approx. Cost of Compliance: \$15,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$5,375

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,375
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$5,375
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Screening Date 10-Aug-2009

Docket No. 2009-1306-MWD-E

PCW

Respondent City of Oakwood

Policy Revision 2 (September 2002)

Case ID No. 38154

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102075553

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	45	90%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 115%

>> 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 45 self-reported monthly effluent violations, one NOV with same/similar violations to those cited in this action, and one agreed order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 115%

Screening Date 10-Aug-2009 **Docket No.** 2009-1306-MWD-E **PCW**
Respondent City of Oakwood *Policy Revision 2 (September 2002)*
Case ID No. 38154 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102075553
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010586002, Operational Requirements No. 4
Violation Description Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, as documented during a record review conducted on July 15, 2009.
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="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.				
					Adjustment <input type="text" value="\$7,500"/>

Violation Events

Number of Violation Events Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event
Violation Base Penalty
 One monthly event is recommended from the date of the record review (July 15, 2009) to the screening date (August 10, 2009).

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal <input type="text" value="\$2,500"/>		

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,237"/>	Violation Final Penalty Total <input type="text" value="\$5,375"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,375"/>	

Economic Benefit Worksheet

Respondent City of Oakwood
Case ID No. 38154
Reg. Ent. Reference No. RN102075553
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$15,000	27-Mar-2009	31-May-2010	1.18	\$59	\$1,178	\$1,237
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
 Estimated costs to ensure the availability of adequate back up power to prevent an unauthorized discharge in the event of main power loss. Date Required is the date the violation was initially documented and 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	\$15,000	TOTAL	\$1,237
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600343867	City of Oakwood	Classification: AVERAGE	Rating: 2.24
Regulated Entity:	RN102075553	CITY OF OAKWOOD WASTEWATER TREATMENT PLANT	Classification: AVERAGE	Site Rating: 2.24
ID Number(s):	WASTEWATER	PERMIT		WQ0010586002
	WASTEWATER	PERMIT		TPDES0116173
	WASTEWATER	PERMIT		TX0116173
Location:	approximately 1,600 feet south-southeast of the intersection of Farm-to-Market Road 831 and Farm-to-Market Road 542, southeast of the City of Oakwood in Leon County, Texas			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	August 13, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 10, 2004 to August 10, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Steve Villatoro	Phone:	512-239-4930	

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: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 12/04/2008** **ADMINORDER 2007-0447-MWD-E**
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Effluent Limits PERMIT
- Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
- Rqmt Prov: Self-reporting Requirements PERMIT
- Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
- Rqmt Prov: 1 PERMIT
- Description: Failed to submit the DMR parameter data for the maximum single grab biochemical oxygen demand for the monitoring period ending December 31, 2005
- 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 | 8/23/2004 | (365951) | 42 | 12/27/2007 | (630268) |
| 2 | 9/20/2004 | (365952) | 43 | 1/28/2008 | (676954) |
| 3 | 10/22/2004 | (365953) | 44 | 2/27/2008 | (676953) |
| 4 | 11/29/2004 | (389476) | 45 | 3/28/2008 | (695580) |
| 5 | 12/23/2004 | (389477) | 46 | 4/28/2008 | (695581) |
| 6 | 1/24/2005 | (389478) | 47 | 6/2/2008 | (717115) |
| 7 | 2/21/2005 | (427029) | 48 | 6/30/2008 | (717116) |
| 8 | 3/21/2005 | (427030) | 49 | 8/1/2008 | (717117) |
| 9 | 4/22/2005 | (427031) | 50 | 8/27/2008 | (717118) |
| 10 | 5/18/2005 | (427032) | 51 | 9/29/2008 | (717119) |
| 11 | 6/21/2005 | (427033) | 52 | 10/22/2008 | (732497) |
| 12 | 7/22/2005 | (427034) | 53 | 11/24/2008 | (732498) |
| 13 | 8/22/2005 | (447175) | 54 | 12/22/2008 | (732499) |
| 14 | 9/22/2005 | (447176) | 55 | 1/26/2009 | (755803) |
| 15 | 10/24/2005 | (491521) | 56 | 2/25/2009 | (755802) |
| 16 | 11/21/2005 | (491522) | 57 | 3/31/2009 | (740499) |
| 17 | 12/22/2005 | (491523) | 58 | 7/22/2009 | (762448) |
| 18 | 1/23/2006 | (491524) | | | |
| 19 | 2/21/2006 | (491519) | | | |
| 20 | 3/22/2006 | (491520) | | | |
| 21 | 4/24/2006 | (505806) | | | |
| 22 | 5/22/2006 | (505807) | | | |
| 23 | 6/22/2006 | (505808) | | | |
| 24 | 7/24/2006 | (528059) | | | |
| 25 | 8/24/2006 | (528060) | | | |
| 26 | 9/20/2006 | (528061) | | | |
| 27 | 10/25/2006 | (551591) | | | |
| 28 | 11/22/2006 | (551592) | | | |
| 29 | 12/27/2006 | (551593) | | | |
| 30 | 1/22/2007 | (551594) | | | |
| 31 | 2/23/2007 | (588634) | | | |
| 32 | 3/14/2007 | (542638) | | | |
| 33 | 3/19/2007 | (588635) | | | |
| 34 | 4/23/2007 | (588636) | | | |
| 35 | 5/23/2007 | (588637) | | | |
| 36 | 6/22/2007 | (588638) | | | |
| 37 | 7/23/2007 | (605538) | | | |
| 38 | 8/24/2007 | (605539) | | | |
| 39 | 9/24/2007 | (605540) | | | |
| 40 | 10/25/2007 | (630266) | | | |
| 41 | 11/28/2007 | (630267) | | | |

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

1	Date:	#	(365952)	CN600343867		
	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			
2	Date:		(365953)	CN600343867		
	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			
3	Date:		(389476)	CN600343867		
	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			
4	Date:		(389477)	CN600343867		
	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			
5	Date:		(427029)	CN600343867		
	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			
6	Date:		(427031)	CN600343867		
	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			
7	Date:		(427032)	CN600343867		
	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			
8	Date:		(427033)	CN600343867		
	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			
9	Date:		(427034)	CN600343867		
	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			
10	Date:		(447175)	CN600343867		
	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			
11	Date:		(491522)	CN600343867		
	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			
12	Date:		(491523)	CN600343867		
	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			
13	Date:		(491524)	CN600343867		
	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			
14	Date:		(491519)	CN600343867		
	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			
15	Date:		(491520)	CN600343867		
	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			
16	Date:		(505806)	CN600343867		
	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			
17	Date:		(505807)	CN600343867		
	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			

35	Date:	(676954)	CN600343867	
	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		
36	Date:	(676953)	CN600343867	
	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		
37	Date:	(695580)	CN600343867	
	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		
38	Date:	(695581)	CN600343867	
	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		
39	Date:	(717115)	CN600343867	
	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		
40	Date:	(717116)	CN600343867	
	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		
41	Date:	(717117)	CN600343867	
	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		
42	Date:	(717118)	CN600343867	
	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		
43	Date:	(717119)	CN600343867	
	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		
44	Date:	(732497)	CN600343867	
	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		
45	Date:	(732498)	CN600343867	
	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		
46	Date:	(740499)	CN600343867	
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements; No. 4, pg. 10 PERMIT		
	Description:	Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.		

- 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 OAKWOOD;
RN102075553**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2009-1306-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding City of Oakwood ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates a wastewater treatment facility located approximately 1,600 feet south-southeast of the intersection of Farm-to-Market Road 831 and Farm-to-Market Road 542, southeast of Oakwood in Leon County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of five thousand three hundred seventy-five dollars (\$5,375.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid five hundred seventy-five dollars (\$575.00) of the administrative penalty. The remaining amount of four thousand eight hundred dollars (\$4,800.00) of the administrative penalty shall be payable in twelve monthly (12) monthly payments of four hundred dollars (\$400.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the

Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During a record review conducted on July 15, 2010, a TCEQ Waco Regional Office investigator documented that Respondent violated 30 TEX. ADMIN CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010586002, Operational Requirements No. 4, by failing to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.
2. Respondent received notice of the violation on or about July 26, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Oakwood, Docket No. 2009-1306-MWD-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13087
Austin, Texas 78711-3087

2. Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order, Respondent shall provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, in accordance with TPDES Permit No. WQ0010586002, Operational Requirements No. 4;
 - b. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 2.a. 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

And:

Frank Burleson, Water Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to

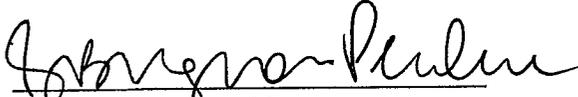
personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. 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.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

4/7/2011
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of City of Oakwood, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Vicki Stroud, Mayor
City of Oakwood

11-17-10
Date