

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-1239-IWD-E **TCEQ ID:** RN101724953 **CASE NO.:** 40191

**RESPONDENT NAME:** First National Bank of Hughes Springs

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Crestwood 7-11 Grocery, 8921 Farm-to-Market Road 729, Avinger, Marion County</p> <p><b>TYPE OF OPERATION:</b> Groundwater treatment unit associated with remediation activities</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Mayo Kasling Jr., President, First National Bank of Hughes Springs, P.O. Box 65, Wolfforth, Texas 79382  <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 Record Review Relating to this Case:</b> July 7, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 22, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failed to comply with permitted effluent limits for benzene, total BTEX (benzene, toluene, ethylbenzene, and total xylenes), MTBE (methyl tert-butyl ether, pH, and lead [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG830334 Part III. Permit Requirements, Section A, Effluent Limitations No. 1, and TEX. WATER CODE § 26.121(a)(1).</p> <p>2) Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the discharge monitoring report ("DMR") data for daily average and daily maximum polynuclear aromatic hydrocarbons for the monitoring periods ending September 30, 2009 and the DMR for the monitoring period ending March 31, 2009 [30 TEX. ADMIN. CODE § 305.125(1) and (17) and § 319.1, TPDES General Permit No. TXG830334 Part III. Permit Requirements, Section A, Effluent Limitations No. 1].</p> <p>3) Failed to collect and analyze samples for daily average and daily maximum concentration for polynuclear aromatic hydrocarbons for the monitoring periods ending May 31, 2009, June 30, 2009, July 31, 2009, and August 31,</p>	<p><b>Total Assessed:</b> \$9,212</p> <p><b>Total Deferred:</b> \$1,842  <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> \$7,370</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on August 19, 2010, the Respondent submitted the revised DMRs for the monitoring periods ending March 31, 2009 through September 30, 2009.</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, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified DMRs and that samples are collected and analyzed;</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. a.; and</p> <p>c) Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES General Permit No. TXG830334, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

2009 [30 TEX. ADMIN. CODE § 305.125(1) and § 319.5(b) and TPDES Permit No. TXG830334 Part III. Permit Requirements, Section A, Effluent Limitations No. 1].		
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Additional ID No(s): TXG830334



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	26-Jul-2010	<b>Screening</b>	9-Aug-2010	<b>EPA Due</b>	
	<b>PCW</b>	12-Aug-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	First National Bank of Hughes Springs
<b>Reg. Ent. Ref. No.</b>	RN101724953
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40191	<b>No. of Violations</b>	4
<b>Docket No.</b>	2010-1369-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Steve Villatoro
		<b>EC's Team</b>	Enforcement Team 1
<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** **\$7,200**

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

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

**Compliance History** **25.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,800**

Notes: Enhancement for five months of self-reported effluent violations.

**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 **\$1,369**  
 Approx. Cost of Compliance **\$8,950**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$9,000**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **2.4%** **Adjustment** **\$212**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture avoided costs associated with violation no. 3.

**Final Penalty Amount** **\$9,212**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$9,212**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,842**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$7,370**

Screening Date 9-Aug-2010

Docket No. 2010-1369-IWD-E

PCW

Respondent First National Bank of Hughes Springs

Policy Revision 2 (September 2002)

Case ID No. 40191

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101724953

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	0	0%
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%
<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)** 25%

#### >> 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 five months of self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

Screening Date 9-Aug-2010

Docket No. 2010-1369-IWD-E

PCW

Respondent First National Bank of Hughes Springs

Policy Revision 2 (September 2002)

Case ID No. 40191

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101724953

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit ("TPDES") General Permit No. TXG830334 Part III. Permit Requirements, Section A. Effluent Limitations No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on July 7, 2010, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	10%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 435

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

Violation Base Penalty \$3,000

Three 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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,139

Violation Final Penalty Total \$3,838

This violation Final Assessed Penalty (adjusted for limits) \$3,838

# Economic Benefit Worksheet

**Respondent** First National Bank of Hughes Springs  
**Case ID No.** 40191  
**Reg. Ent. Reference No.** RN101724953  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$8,500	31-May-2009	30-Apr-2011	1.92	\$54	\$1,085	\$1,139
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

Actual cost to replace carbon filters and install a lead purification unit. Date required is the first date of non-compliance. 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

\$8,500

**TOTAL**

\$1,139

Screening Date 9-Aug-2010

Docket No. 2010-1369-IWD-E

PCW

Respondent First National Bank of Hughes Springs

Policy Revision 2 (September 2002)

Case ID No. 40191

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101724953

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.1 and TPDES General Permit No. TXG830334 Part III. Permit Requirements, Section A. Effluent Limitations No. 1

Violation Description Failed to submit monitoring results at the intervals specified in the permit, as documented in a record review on July 7, 2010. Specifically, the Respondent failed to submit the discharge monitoring report ("DMR") data for daily average and daily maximum polynuclear aromatic hydrocarbons for the monitoring period ending September 30, 2009.

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 the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 323

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 \$18

Violation Final Penalty Total \$128

This violation Final Assessed Penalty (adjusted for limits) \$128

# Economic Benefit Worksheet

**Respondent** First National Bank of Hughes Springs  
**Case ID No.** 40191  
**Reg. Ent. Reference No.** RN101724953  
**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

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)	\$150	20-Aug-2009	19-Aug-2010	1.00	\$0	\$10	\$10
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	\$100	20-Aug-2009	28-Feb-2011	1.53	\$8	n/a	\$8
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 cost to submit revised and complete DMRs and update the Facility's operational guidance and conduct employee training to ensure that all DMRs are submitted and effluent samples are collected and analyzed as required. Date required is date the first report was due. Final dates are the date the revised DMRs were submitted and the expected date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$250

**TOTAL** \$18

Screening Date 9-Aug-2010

Docket No. 2010-1369-IWD-E

PCW

Respondent First National Bank of Hughes Springs

Policy Revision 2 (September 2002)

Case ID No. 40191

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101724953

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG830334 Part III. Permit Requirements, Section A. Effluent Limitations No. 1

Violation Description

Failed to collect and analyze samples for daily average and daily maximum concentration for polynuclear aromatic hydrocarbons for the monitoring periods ending May 31, 2009, June 30, 2009, July 31, 2009, and August 31, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could or would be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

122 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$4,000

Four single 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 \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$212

Violation Final Penalty Total \$5,118

This violation Final Assessed Penalty (adjusted for limits) \$5,118

# Economic Benefit Worksheet

**Respondent** First National Bank of Hughes Springs  
**Case ID No.** 40191  
**Reg. Ent. Reference No.** RN101724953  
**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
No commas or \$							

### 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

See economic benefit for violation no. 2.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$200	31-May-2009	31-Aug-2009	1.17	\$12	\$200	\$212
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of sampling and lab analysis (\$50 per month) required to report effluent levels. Date required is the first date of noncompliance. Final date is the date of the last report without polynuclear aromatic hydrocarbon analysis.

Approx. Cost of Compliance

\$200

**TOTAL**

\$212

Screening Date 9-Aug-2010

Docket No. 2010-1369-IWD-E

PCW

Respondent First National Bank of Hughes Springs

Policy Revision 2 (September 2002)

Case ID No. 40191

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101724953

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.1 and TPDES General Permit No. TXG830334 Part III. Permit Requirements, Section A. Effluent Limitations No. 1

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented in a record review on July 7, 2010. Specifically, the Respondent failed to timely submit the DMR for the monitoring period ending March 31, 2009.

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 the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

496 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 \$0

Violation Final Penalty Total \$128

This violation Final Assessed Penalty (adjusted for limits) \$128

# Economic Benefit Worksheet

**Respondent** First National Bank of Hughes Springs  
**Case ID No.** 40191  
**Reg. Ent. Reference No.** RN101724953  
**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
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

See 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

\$0

**TOTAL**

\$0

EFFLUENT VIOLATION TABLE								
First National Bank of Hughes Spring								
TPDES General Permit No. TXG830334								
Docket No. 2010-1369-IWD-E								
Months	Benzene Daily Avg. Conc.	Benzene Daily Max. Conc.	Total BTEX Daily Avg. Conc.	Total BTEX Daily Max. Conc.	MTBE Daily Max. Conc.	pH	Total Lead Daily Avg. Conc.	Total Lead Daily Max. Conc.
	Limit = 0.005 mg/L	Limit = 0.005 mg/L	Limit = 0.10 mg/L	Limit = 0.10 mg/L	Limit = 0.15 mg/L	Min. = 6 SU	Limit = 0.02 mg/L	Limit = 0.02 mg/L
3/31/2009	c	c	c	c	c	c	0.0226	0.092
5/31/2009	c	0.0095	c	c	c	c	c	c
9/30/2009	c	c	c	c	c	5.98	c	c
12/31/2009	c	0.0064	c	c	c	c	c	c
1/31/2010	0.02257	0.0258	0.14966	0.19459	c	c	c	c

BTEX = benzene, toluene, ethylbenzene, and total xylenes

MTBE = methyl tert-butyl ether.

max. = maximum

avg. = average

mg/L = milligrams per liter

c = compliant

SU = standard units

conc. = concentration



# Compliance History Report

Customer/Respondent/Owner-Operator: CN602619645 First National Bank of Hughes Springs Classification: AVERAGE Rating: 1.97

Regulated Entity: RN101724953 CRESTWOOD 7-11 GROCERY Classification: AVERAGE Site Rating: 0.94

ID Number(s): WASTEWATER GENERAL PERMIT PERMIT TXG830334

Location: 8921 Farm-to-Market Road 729, Avinger, Marion County, Texas 75630

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: September 10, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 26, 2005 to July 26, 2010

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: 9/1/2010 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 07/23/2009 (840945)
- 2 07/23/2009 (840946)
- 3 07/23/2009 (840947)
- 4 11/12/2009 (840948)
- 5 11/12/2009 (840949)
- 6 11/12/2009 (840950)
- 7 01/21/2010 (840951)
- 8 01/21/2010 (840952)
- 9 01/21/2010 (840953)
- 10 04/15/2010 (840942)
- 11 04/15/2010 (840943)
- 12 04/15/2010 (840944)
- 13 07/22/2010 (830150)

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

Date: 03/31/2009 CN602619645  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter  
Date: 05/31/2009 (840946) CN602619645  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter  
Date: 09/30/2009 (840950) CN602619645  
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 (840953) CN602619645  
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 (840942)

CN602619645

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
FIRST NATIONAL BANK OF  
HUGHES SPRINGS  
RN101724953**

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

## **AGREED ORDER DOCKET NO. 2010-1369-IWD-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 First National Bank of Hughes Springs ("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 groundwater treatment unit associated with remediation activities located at 8921 Farm-to-Market Road 729 in Avinger, Marion County, Texas (the "Facility").
2. The Respondent has discharged industrial 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 July 27, 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 Nine Thousand Two Hundred Twelve Dollars (\$9,212) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Three Hundred Seventy Dollars (\$7,370) of the administrative penalty and One Thousand Eight Hundred Forty-Two Dollars (\$1,842) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on August 19, 2010, the Respondent submitted the revised discharge monitoring reports ("DMRs") for the monitoring periods ending March 31, 2009 and September 30, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limits, as documented during a record review conducted on July 7, 2010, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit ("TPDES") General Permit No. TXG830334 Part III. Permit Requirements, Section A. Effluent Limitations No. 1, as documented during a record review conducted on July 7, 2010 and shown in the following table:

EFFLUENT VIOLATION TABLE								
Months	Benzene Daily Avg. Conc.	Benzene Daily Max. Conc.	Total BTEX Daily Avg. Conc.	Total BTEX Daily Max. Conc.	MTBE Daily Max. Conc.	pH	Total Lead Daily Avg. Conc.	Total Lead Daily Max. Conc.
	Limit = 0.005 mg/L	Limit = 0.005 mg/L	Limit = 0.10 mg/L	Limit = 0.10 mg/L	Limit = 0.15 mg/L	Min. = 6 SU	Limit = 0.02 mg/L	Limit = 0.02 mg/L
3/31/2009	c	c	c	c	c	c	0.0226	0.092
5/31/2009	c	0.0095	c	c	c	c	c	c
9/30/2009	c	c	c	c	c	5.98	c	c
12/31/2009	c	0.0064	c	c	c	c	c	c
1/31/2010	0.02257	0.0258	0.14966	0.19459	c	c	c	c

BTEX = benzene, toluene, ethylbenzene, and total xylenes

MTBE = methyl tert-butyl ether

max. = maximum

avg. = average

mg/L = milligrams per liter

c = compliant

SU = standard units

conc. = concentration

- Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.1 and TPDES General Permit No. TXG830334 Part III. Permit Requirements, Section A. Effluent Limitations No. 1, as documented during a record review conducted on July 7, 2010. Specifically, the Respondent failed to submit the DMR data for daily average and daily maximum polynuclear aromatic hydrocarbons for the monitoring periods ending September 30, 2009 and the DMR for the monitoring period ending March 31, 2009.
- Failed to collect and analyze samples for daily average and daily maximum concentration for polynuclear aromatic hydrocarbons for the monitoring periods ending May 31, 2009, June 30, 2009, July 31, 2009, and August 31, 2009, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG830334 Part III. Permit Requirements, Section A. Effluent Limitations No. 1.

### 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: First National Bank of Hughes Springs, Docket No. 2010-1369-IWD-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, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified DMRs and that samples are collected and analyzed, in accordance with TPDES General Permit No. TXG830334 Part III. Permit Requirements, Section A. Effluent Limitations No. 1;
  - b. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.a. The certification shall be in accordance with Ordering Provision No. 2.d below;
  - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES General Permit No. TXG830334, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be in accordance with Ordering Provision No. 2.d below; and
  - d. The written certification of compliance required by Ordering Provisions Nos. 2.b and 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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.

