

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1715-MWD-E **TCEQ ID:** RN102844917 **CASE NO.:** 40571  
**RESPONDENT NAME:** City of Breckenridge

<b>ORDER TYPE:</b>		
<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	
<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> City of Breckenridge WWTP, located approximately 6,000 feet north-northeast of the intersection of United States Highway 180 and United States Highway 183, and approximately 1,000 feet east of United States Highway 183, Stephens County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment system</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 21, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Jim McKay, Mayor, City of Breckenridge, 105 North Rose Avenue, Breckenridge, Texas 76424  Mr. Gary G. Ernest, City Manager, City of Breckenridge, 105 North Rose Avenue, Breckenridge, Texas 76424  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 24, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 22, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failed to comply with permitted effluent limits for ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010040001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$7,875</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$725 (remaining \$7,150 due in 11 monthly payments of \$650 each)</p> <p><b>Compliance History Classifications:</b>                      Person/CN – Average                      Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b></p> <p>Human health and the environment have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Replaced the eight-inch activated sludge return line, removed discharged sludge from the Facility, and added enzymes and increased detention time in the clarifiers; and</p> <p>b. Returned to compliance with permitted effluent limits by June 30, 2010.</p>

Additional ID No(s): WQ0010040001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	27-Sep-2010	<b>Screening</b>	12-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	12-Oct-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Breckenridge
<b>Reg. Ent. Ref. No.</b>	RN102844917
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40571	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1715-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jeremy Escobar
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$7,500
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	30.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$2,250

<b>Notes</b>	Enhancement for three months of self-reported effluent violations, and three NOV's with same/similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,875
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
<small>Total EB Amounts</small>	\$238	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$28,500		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,875
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$7,875
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,875
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>				

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$7,875
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Screening Date 12-Oct-2010

Docket No. 2010-1715-MWD-E

PCW

Respondent City of Breckenridge

Policy Revision 2 (September 2002)

Case ID No. 40571

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844917

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	6	30%
	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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

#### >> 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 three months of self-reported effluent violations, and three NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 12-Oct-2010

Docket No. 2010-1715-MWD-E

PCW

Respondent City of Breckenridge

Policy Revision 2 (September 2002)

Case ID No. 40571

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844917

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010040001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits for the monitoring period ending April 30, 2010, as documented in a record review conducted on August 24, 2010. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	X			50%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Matrix Notes

A simplified model was used to evaluate total ammonia nitrogen daily average to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 30 Number of violation days

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

Violation Base Penalty \$5,000

One monthly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent returned to compliance by June 30, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$238

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

# Economic Benefit Worksheet

**Respondent** City of Breckenridge  
**Case ID No.** 40571  
**Reg. Ent. Reference No.** RN102844917  
**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
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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)	\$28,500	30-Apr-2010	30-Jun-2010	0.17	\$238	n/a	\$238

Notes for DELAYED costs

Actual cost to replace the eight-inch activated sludge return line, remove discharged sludge from the Facility, add enzymes and increase detention time in the clarifiers. Date required is the first date of non-compliance. The final date is the date the Respondent returned to 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

\$28,500
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**TOTAL**

\$238
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**Screening Date** 12-Oct-2010  
**Respondent** City of Breckenridge  
**Case ID No.** 40571

**Docket No.** 2010-1715-MWD-E

**PCW**

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

**Reg. Ent. Reference No.** RN102844917

**Media [Statute]** Water Quality

**Enf. Coordinator** Jeremy Escobar

**Violation Number** 2

**Rule Cite(s)**

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010040001, Effluent Limitations and Monitoring Requirements No. 1

**Violation Description**

Failed to comply with permitted effluent limits for the monitoring period ending May 31, 2010, as documented in a record review conducted on August 24, 2010. See attached table.

**Base Penalty** \$10,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

**Percent** 25%

>>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0%

Matrix Notes

A simplified model was used to evaluate total ammonia nitrogen daily average to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$2,500

One monthly event is recommended.

**Good Faith Efforts to Comply**

25.0% Reduction

\$625

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

Notes

The Respondent returned to compliance by June 30, 2010.

**Violation Subtotal** \$1,875

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

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$2,625

**This violation Final Assessed Penalty (adjusted for limits)** \$2,625

# Economic Benefit Worksheet

**Respondent** City of Breckenridge  
**Case ID No.** 40571  
**Reg. Ent. Reference No.** RN102844917  
**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

See economic benefit for violation No. 1.

### 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

City of Breckenridge Docket No. 2010-1715-MWD-E  
TPDES Permit No. WQ0010040001

Permitted Effluent Limits	NH3-N Daily Average Concentration 2 mg/L	NH3-N Daily Maximum Concentration 10 mg/L	NH3-N Daily Average Loading 16 lbs/day
April 2010	17.38	26	137.71
May 2010	5.28	13.3	40.82

NH3-N = ammonia nitrogen	mg/L = milligrams per Liter	lbs/day = pounds per day
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# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600628523 City of Breckenridge	Classification: AVERAGE	Rating: 2.45
Regulated Entity:	RN102844917 CITY OF BRECKENRIDGE WWTP	Classification: AVERAGE	Site Rating: 0.78
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID WASTEWATER LICENSING LICENSE		WQ0010040001 TX0023213 WQ0010040001
Location:	approximately 6,000 feet north-northeast of the intersection of United States Highway 180 and United States Highway 183, and approximately 1,000 feet east of United States Highway 183 in Stephens County, Texas		
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	October 20, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 12, 2005 to October 12, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jeremy Escobar	Phone:	(361) 825-3422

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period?       | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No  |
| 3. If Yes, who is the current owner/operator?  | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)?  | N/A |
| 5. When did the change(s) in owner or operator occur?  | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator:  | NO  |

### Components (Multimedia) for the Site :

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

	(455985)
1	02/21/2006
2	02/21/2006 (469902)
3	03/20/2006 (469903)
4	11/21/2005 (469905)
5	12/16/2005 (469906)
6	01/20/2006 (469907)
7	06/13/2006 (482085)
8	04/20/2006 (499109)
9	05/22/2006 (499110)
10	06/21/2006 (499111)
11	07/14/2006 (521154)
12	09/05/2006 (521155)
13	09/20/2006 (521156)
14	10/20/2006 (545658)
15	11/22/2006 (545659)
16	12/20/2006 (545660)
17	02/22/2007 (577371)
18	03/22/2007 (577372)
19	04/18/2007 (577373)
20	06/20/2007 (577374)

21	01/22/2007	(577375)
22	07/23/2007	(602173)
23	08/20/2007	(602174)
24	09/20/2007	(602175)
25	10/22/2007	(620289)
26	11/21/2007	(620290)
27	12/20/2007	(620291)
28	02/21/2008	(672640)
29	01/21/2008	(672641)
30	08/21/2008	(686457)
31	03/21/2008	(690628)
32	04/21/2008	(690629)
33	05/22/2008	(690630)
34	06/20/2008	(711480)
35	07/21/2008	(711481)
36	08/21/2008	(711482)
37	09/23/2008	(711483)
38	10/20/2008	(728016)
39	11/21/2008	(728017)
40	12/19/2008	(728018)
41	02/20/2009	(750921)
42	01/22/2009	(750922)
43	03/19/2009	(768865)
44	04/20/2009	(768866)
45	05/22/2007	(768867)
46	05/21/2009	(768868)
47	05/11/2010	(800510)
48	02/18/2010	(806313)
49	06/18/2009	(806314)
50	07/20/2009	(806315)
51	08/19/2009	(806316)
52	09/21/2009	(806317)
53	10/19/2009	(806318)
54	11/16/2009	(806319)
55	12/21/2009	(806320)
56	01/20/2010	(806321)
57	03/17/2010	(831467)
58	04/14/2010	(831468)
59	05/20/2010	(831469)
60	06/16/2010	(846455)
61	09/24/2010	(850200)
62	08/18/2010	(867049)

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

Date:	02/24/2006	(455985)	CN600628523
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Sludge Provisions, Section III (F)(1), P OP		
Description:	Failure to maintain copies of all paint filter tests.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)		
Description:	Failure to maintain the chlorine contact chamber.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d)		

Description: Failure to properly maintain the large final clarifier.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.4(l)

Description: failure to properly operate and maintain the sand filters.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.1

Description: Failure to maintain the rotor # 3 in the oxidation ditch.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 TWC Chapter 26 26.121  
 TWC Chapter 26 26.121(a)  
 TWC Chapter 26 26.121(a)(1)  
 TWC Chapter 26 26.121(a)(2)  
 TWC Chapter 26 26.121(a)(3)  
 TWC Chapter 26 26.121(b)  
 TWC Chapter 26 26.121(c)  
 TWC Chapter 26 26.121(d)  
 TWC Chapter 26 26.121(e)

Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Effluent Limitations and Monitoring OP

Description: Failure to meet 1.0 mg/L minimum chlorine residual.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to calibrate laboratory scales and laboratory thermometers annually.

Date: 04/30/2008 (690630) CN600628523  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/21/2008 (686457) CN600628523  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.4(a)(8)  
 30 TAC Chapter 317 317.7(i)

Description: Failure to provide an annual check certification on the reduced pressure backflow assembly (RPBA) on the public water supply line located at the wastewater treatment plant.  
 Self Report? NO Classification: Major  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
 2D TWC Chapter 26, SubChapter A 26.121(b)  
 2D TWC Chapter 26, SubChapter A 26.121(c)  
 2D TWC Chapter 26, SubChapter A 26.121(d)  
 2D TWC Chapter 26, SubChapter A 26.121(e)  
 30 TAC Chapter 305, SubChapter F 305.125(4)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 TWC Chapter 26 26.121  
 TWC Chapter 26 26.121(a)(2)  
 WQ0010040001 PERMIT

Description: Failure to prevent unauthorized discharge of wastewater into or adjacent to any water in the state.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.11  
 30 TAC Chapter 319, SubChapter A 319.7(a)  
 WQ0010040001 PERMIT

Description: Failure to provide adequate laboratory records.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 317 317.6(b)(1)(E)

WQ0010040001 PERMIT  
 Description: Failure to properly operate and maintain the wastewater treatment plant (WWTP).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.3(e)(5)

Description: Failure to provide an operable alarm system on all lift stations.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010040001 PERMIT

Description: Failure to properly collect composite samples.  
 Date 04/30/2010 (831469) CN600628523  
 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 05/11/2010 (800510) CN600628523  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.4(a)(8)  
 30 TAC Chapter 317 317.7(i)  
 Description: Failure to provide an annual check certification on the reduced pressure backflow assembly (RPBA) on the public water supply line located at the wastewater treatment plant.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.11  
 30 TAC Chapter 319, SubChapter A 319.7(a)  
 WQ0010040001 PERMIT

Description: Failure to provide adequate laboratory records.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.3(e)(5)  
 Description: Failure to provide an operable alarm system on all lift stations.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010040001 PERMIT

Description: Failure to properly collect composite samples.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)  
 WQ0010040001 PERMIT

Description: Failure to submit the annual sludge report (September 2008-August 2009) by September 1, 2009.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 WQ0010040001 PERMIT

Description: Failure to properly operate and maintain the clarifier at the wastewater treatment plant (WWTP).  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
 2D TWC Chapter 26, SubChapter A 26.121(b)  
 2D TWC Chapter 26, SubChapter A 26.121(c)  
 2D TWC Chapter 26, SubChapter A 26.121(d)  
 2D TWC Chapter 26, SubChapter A 26.121(e)  
 30 TAC Chapter 305, SubChapter F 305.125(4)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 TWC Chapter 26 26.121  
 TWC Chapter 26 26.121(a)(2)  
 WQ0010040001 PERMIT

Description: Failure to prevent unauthorized discharge of wastewater into or adjacent to any water in the state.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
 30 TAC Chapter 319, SubChapter A 319.7(c)  
 WQ0010040001 PERMIT

Description: Failure to provide adequate monitoring records.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 WQ0010040001 PERMIT

Description: Failure to properly operate and maintain the Prison lift station.

Date 05/31/2010 (846455) CN600628523

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  
CITY OF BRECKENRIDGE  
RN102844917**

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

## **AGREED ORDER DOCKET NO. 2010-1715-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 Breckenridge (“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 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 approximately 6,000 feet north-northeast of the intersection of United States Highway 180 and United States Highway 183, and approximately 1,000 feet east of United States Highway 183 in Stephens 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 August 24, 2010, TCEQ staff documented the following exceedances of permitted effluent limits based on the self-reported quarterly discharge monitoring reports:

<b>Effluent Violation Table</b>			
Permitted Effluent Limits	NH <sub>3</sub> -N Daily Average Concentration 2 mg/L	NH <sub>3</sub> -N Daily Maximum Concentration 10 mg/L	NH <sub>3</sub> -N Daily Average Loading 16 lbs/day
April 2010	17.38	26	137.71
May 2010	5.28	13.3	40.82

NH <sub>3</sub> -N = ammonia nitrogen	mg/L = milligrams per Liter	lbs/day = pounds per day
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4. The Respondent received notice of the violations on or about September 27, 2010.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
- a. Replaced the eight-inch activated sludge return line, removed discharged sludge from the Facility, added enzymes and increased detention time in the clarifiers; and
  - b. Returned to compliance with permitted effluent limits by June 30, 2010.

## 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 permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010040001, Effluent Limitations and Monitoring Requirements No. 1. as documented in a record review conducted on August 24, 2010.

3. 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.
4. An administrative penalty in the amount of Seven Thousand Eight Hundred Seventy-Five Dollars (\$7,875) 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 Seven Hundred Twenty-Five Dollars (\$725) of the administrative penalty. The remaining amount of Seven Thousand One Hundred Fifty Dollars (\$7,150) of the administrative penalty shall be payable in eleven quarterly payments of Six Hundred Fifty Dollars (\$650) each. The next quarterly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 90 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### **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 Seven Thousand Eight Hundred Seventy-Five Dollars (\$7,875) as set forth in Section II, Paragraph 4 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 Breckenridge, Docket No. 2010-1715-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
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. 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 1/13/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Breckenridge. I am authorized to agree to the attached Agreed Order on behalf of the City of Breckenridge, 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 Breckenridge 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

\_\_\_\_\_  
November 30, 2010  
Date

\_\_\_\_\_  
Gary G. Ernest  
Name (Printed or typed)  
Authorized Representative of  
City of Breckenridge

\_\_\_\_\_  
City Manager  
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