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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1925-MWD-E **TCEQ ID:** RN102177953 **CASE NO.:** 40759
RESPONDENT NAME: City of Daingerfield

ORDER TYPE:		
<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	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Dangerfield WWTP, located approximately 5,500 feet southeast of the intersection of United States Highway 259, Farm-to-Market Road 11 and Farm-to-Market Road 49, Morris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 28, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Lou Irvin, Mayor, City of Daingerfield, 108 Coffey Street, Daingerfield, Texas 75638 Mr. Marty Byers, City Manager, City of Daingerfield, 108 Coffey Street, Daingerfield, Texas 75638 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up <u>X</u> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 7, 2010</p> <p>Date of NOV/NOE Relating to this Case: October 28, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limits for ammonia nitrogen, flow, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010499001, Final Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$4,260</p> <p>Total Deferred: \$852 <u>X</u> Expedited Settlement ___ Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,408</p> <p>Compliance History Classifications Person/CN - Average Site/RN- Average</p> <p>Major Source: ___ Yes <u>X</u> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0010499001, 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 limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision.</p>

Additional ID No(s): WQ0010499001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	1-Nov-2010			
	PCW	15-Nov-2010	Screening	15-Nov-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	City of Daingerfield				
Reg. Ent. Ref. No.	RN102177953				
Facility/Site Region	5-Tyler	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	40759	No. of Violations	1		
Docket No.	2010-1925-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	\$3,000
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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	47.0% Enhancement	Subtotals 2, 3, & 7	\$1,410
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Notes Enhancement for nine months of self-reported violations and one NOV with dissimilar violations.

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 \$790
 Approx. Cost of Compliance \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,410
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-3.4%	Adjustment	-\$150
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommend reduction in the penalty so that monthly self-reported violations do not overly impact the penalty amount.

Final Penalty Amount	\$4,260
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,260
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DEFERRAL	20.0% Reduction	Adjustment	-\$852
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,408
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Screening Date 15-Nov-2010

Docket No. 2010-1925-MWD-E

PCW

Respondent City of Daingerfield

Policy Revision 2 (September 2002)

Case ID No. 40759

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102177953

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>)	9	45%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 47%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for nine months of self-reported violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

Screening Date 15-Nov-2010
Respondent City of Daingerfield
Case ID No. 40759
Reg. Ent. Reference No. RN102177953
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2010-1925-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010499001, Final Effluent Limitations and Monitoring Requirements No. 1

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

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes
 A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

Three quarterly events are recommended.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Daingerfield
Case ID No. 40759
Req. Ent. Reference No. RN102177953
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Jan-2010	31-Aug-2011	1.58	\$790	n/a	\$790

Notes for DELAYED costs

Estimated costs to determine the cause of non-compliance and to implement corrective actions. 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

\$10,000

TOTAL

\$790

EFFLUENT VIOLATION TABLE							
City of Daingerfield							
TPDES Permit No. WQ0010499001							
Docket No. 2010-1925-MWD-E							
Months	Flow Daily Avg.	Ammonia Nitrogen Daily Avg. Conc.	Ammonia Nitrogen Daily Max. Conc.	Ammonia Nitrogen Daily Avg. Loading	TSS Daily Avg. Conc.	TSS Daily Avg. Loading	TSS Daily Max. Conc.
	Limit = 0.7 MGD	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 18 lbs/day	Limit = 15 mg/L	Limit = 88 lbs/day	Limit = 40 mg/L
January 2010	c	c	13.34	c	c	c	c
February 2010	.729	c	c	c	c	c	c
April 2010	c	3.103	c	c	c	c	c
May 2010	c	9.140	20.20	c	21.37	c	60.0
June 2010	c	13.600	15.30	36.13	34.77	90.7	46.7
July 2010	c	13.120	20.70	c	35.88	c	68.0

Max = maximum

mg/L = milligrams per liter

Avg. = average

TSS = total suspended solids

Conc. = concentration

MGD = million gallons per day

lbs/day = pounds per day

c = compliant

Compliance History

Customer/Respondent/Owner-Operator:	CN600684385	City of Daingerfield	Classification: AVERAGE	Rating: 0.33
Regulated Entity:	RN102177953	CITY OF DAINGERFIELD WWTP	Classification: AVERAGE	Site Rating: 0.33
ID Number(s):	WASTEWATER	PERMIT	WQ0010499001	
	WASTEWATER	EPA ID	TX0027031	
	WASTEWATER LICENSING	LICENSE	WQ0010499001	
Location:	approximately 5,500 feet southeast of the intersection of United States Highway 259, Farm-to-Market 11 and Farm-to-Market Road 49 in Morris County, Texas			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	November 16, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 16, 2005 to November 16, 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	02/16/2006	(471216)
2	03/13/2006	(471217)
3	12/08/2005	(471220)
4	01/13/2006	(471221)
5	07/07/2006	(483184)
6	04/13/2006	(499971)
7	05/10/2006	(499972)
8	06/12/2006	(499973)
9	10/27/2006	(517401)
10	07/13/2006	(522070)
11	08/15/2006	(522071)
12	09/25/2006	(522072)
13	10/18/2006	(546731)
14	11/13/2006	(546732)
15	12/20/2006	(546733)
16	03/12/2007	(579004)

17	04/19/2007	(579005)
18	05/14/2007	(579006)
19	02/12/2007	(579007)
20	01/12/2007	(579008)
21	07/19/2007	(602670)
22	09/18/2007	(602671)
23	02/29/2008	(618365)
24	10/15/2007	(620928)
25	11/15/2007	(620929)
26	12/13/2007	(620930)
27	02/15/2008	(673104)
28	01/24/2008	(673105)
29	09/05/2008	(687327)
30	03/17/2008	(691240)
31	04/11/2008	(691241)
32	05/14/2008	(691242)
33	02/12/2007	(712093)
34	06/13/2008	(712094)
35	07/14/2008	(712095)
36	08/20/2008	(712096)
37	09/16/2008	(712097)
38	10/16/2008	(712098)
39	11/14/2008	(728472)
40	12/17/2008	(728473)
41	02/25/2009	(735752)
42	03/31/2009	(740789)
43	02/13/2009	(751563)
44	01/20/2009	(751564)
45	09/23/2009	(765644)
46	03/11/2009	(769290)
47	04/16/2009	(769291)
48	05/14/2009	(769292)
49	02/16/2010	(807668)
50	06/19/2009	(807669)
51	07/13/2009	(807670)
52	08/17/2009	(807671)
53	09/14/2009	(807672)
54	10/13/2009	(807673)
55	11/19/2009	(807674)
56	12/10/2009	(807675)
57	01/15/2010	(807676)
58	03/15/2010	(831979)
59	04/14/2010	(831980)
60	05/20/2010	(831981)
61	06/21/2010	(846609)
62	07/21/2010	(867245)
63	08/13/2010	(867246)
64	10/29/2010	(869899)
65	09/16/2010	(874293)

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

Date: 03/31/2007 (579005) CN600684385
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2008 (712098) CN600684385
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/27/2009 (735752) CN600684385
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to have a laboratory grade thermometer (stored in water) in the sample storage refrigerator.

According to 30 TAC §319.11.a, all sample collection shall be conducted according to recommendations found in the latest edition of the Standard Methods for the Examination of Water and Wastewater or the Environmental Protection Agency manual entitled Methods for Chemical Analysis of Water and Wastes or The Environmental Protection Agency manual entitled Biological Field and Laboratory Methods

Date: 01/31/2010 (807668) CN600684385
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 (831979) CN600684385
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2010 (831981) CN600684385
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: 05/31/2010 (846609) CN600684385
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2010 (867245) CN600684385
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2010 (867246) CN600684385
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2010 (874293) CN600684385
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 DAINGERFIELD
RN102177953**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1925-MWD-E**

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment plant located approximately 5,500 feet southeast of the intersection of United States Highway 259, Farm-to-Market Road 11 and Farm-to-Market Road 49 in Morris County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 2, 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 Four Thousand Two Hundred Sixty Dollars (\$4,260) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Four Hundred Eight Dollars (\$3,408) of the administrative penalty and Eight Hundred Fifty-Two Dollars (\$852) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010499001, Final Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 7, 2010 and shown in the following table:

EFFLUENT VIOLATION TABLE							
Months	Flow Daily Avg.	Ammonia Nitrogen Daily Avg. Conc.	Ammonia Nitrogen Daily Max. Conc.	Ammonia Nitrogen Daily Avg. Loading	TSS Daily Avg. Conc.	TSS Daily Avg. Loading	TSS Daily Max. Conc.
	Limit = 0.7 MGD	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 18 lbs/day	Limit = 15 mg/L	Limit = 88 lbs/day	Limit = 40 mg/L
January 2010	c	c	13.34	c	c	c	c
February 2010	.729	c	c	c	c	c	c
April 2010	c	3.103	c	c	c	c	c
May 2010	c	9.140	20.20	c	21.37	c	60.0
June 2010	c	13.600	15.30	36.13	34.77	90.7	46.7
July 2010	c	13.120	20.70	c	35.88	c	68.0

Max = maximum

mg/L = milligrams per liter

Avg. = average

TSS = total suspended solids

Conc. = concentration

MGD = million gallons per day

lbs/day = pounds per day

C = compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Daingerfield, Docket No. 2010-1925-MWD-E" to:

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

2. It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0010499001, 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 limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. 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 Quality 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 2/10/2011

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date 12-15-2010

Marty Byers
Name (Printed or typed)
Authorized Representative of
City of Daingerfield

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 IV, Paragraph 1 of this Agreed Order.