

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1780-MWD-E **TCEQ ID:** RN102844321 **CASE NO.:** 40629
RESPONDENT NAME: City of Troy

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 Troy WWTP, located at 1111 North Central Access Road, approximately 5,500 feet north of the center of Troy and lying between Interstate Highway 35 and the Missouri, Kansas, and Texas Railroad, Bell 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 April 11, 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 Jeff Browning, Ph.D., Mayor, City of Troy, P.O. Box 389, Troy, Texas 76579 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: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 7, 2010</p> <p>Date of NOV/NOE Relating to this Case: October 14, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limits for flow, ammonia nitrogen, and chlorine residual [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011263001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].</p>	<p>Total Assessed: \$6,880</p> <p>Total Deferred: \$1,376 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,504</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>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. WQ0011263001, 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): WQ0011263001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Oct-2010	Screening	25-Oct-2010	EPA Due	
	PCW	25-Oct-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Troy				
Reg. Ent. Ref. No.	RN102844321				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	40629	No. of Violations	1
Docket No.	2010-1780-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** **\$4,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **97.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,880**

Notes
Enhancement for 14 months of self-reported effluent violations, one NOV with dissimilar violations, and one order without denial of liability language.

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 **\$958**
Approx. Cost of Compliance **\$10,000**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,880**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-12.7%** **Adjustment** **-\$1,000**

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 **\$6,880**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,880**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,376**

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 **\$5,504**

Screening Date 25-Oct-2010

Docket No. 2010-1780-MWD-E

PCW

Respondent City of Troy

Policy Revision 2 (September 2002)

Case ID No. 40629

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844321

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>)	14	70%
	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	1	25%
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) 97%

>> 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 14 months of self-reported effluent violations, one NOV with dissimilar violations, and one order without denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 97%

Screening Date 25-Oct-2010

Docket No. 2010-1780-MWD-E

PCW

Respondent City of Troy

Policy Revision 2 (September 2002)

Case ID No. 40629

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844321

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 ("TPDES") Permit No. WQ0011263001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

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

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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 chlorine residual 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 \$9,000

\$1,000

Violation Events

Number of Violation Events 4 273 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$958

Violation Final Penalty Total \$6,880

This violation Final Assessed Penalty (adjusted for limits) \$6,880

Economic Benefit Worksheet

Respondent City of Troy
Case ID No. 40629
Req. Ent. Reference No. RN102844321
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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-Aug-2009	31-Jul-2011	1.92	\$958	n/a	\$958

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

\$958

EFFLUENT VIOLATION TABLE					
City of Troy					
TPDES Permit No. WQ0011263001					
Docket No. 2010-1780-MWD-E					
Months	Flow Daily Avg.	Ammonia Nitrogen Daily Avg. Conc.	Ammonia Nitrogen Daily Avg. Loading	Chlorine Residual Min.	Chlorine Residual Max.
	Limit = 0.309 MGD	Limit = 3 mg/L	Limit = 7.7 lbs/day	Min. = 1.0 mg/L	Max. = 4.0 mg/L
August 2009	c	c	c	0.51	c
September 2009	c	c	c	0.50	c
October 2009	0.520	c	9.01	0.46	c
November 2009	0.359	c	c	c	c
December 2009	c	c	c	0.46	c
January 2010	c	5.06	c	0.75	c
February 2010	.390	c	c	0.25	c
March 2010	c	c	c	0.30	c
April 2010	c	c	c	0.40	4.4
May 2010	c	6.2	c	0.34	c

Max = maximum
mg/L = milligrams per liter
Min. = minimum
c = compliant

Conc. = concentration
MGD = million gallons per day
lbs/day = pounds per day

Compliance History Report

Customer/Respondent/Owner-Operator: CN600343404 City of Troy Classification: AVERAGE Rating: 6.35
Regulated Entity: RN102844321 CITY OF TROY Classification: AVERAGE Site Rating: 9.70
ID Number(s): WASTEWATER PERMIT WQ0011263001
WASTEWATER EPA ID TX0058084
WASTEWATER LICENSING LICENSE WQ0011263001
Location: located at 1111 North Central Access Road, approximately 5,500 feet north of the center of Troy and lying between Interstate Highway 35 and the Missouri, Kansas, and Texas Railroad in Bell County, Texas
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: October 25, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 25, 2005 to October 25, 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.

Effective Date: 08/20/2006 ADMINORDER 2005-2094-MWD-E

Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)

Description: Failure by the permittee to provide atmospheric vacuum breakers.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(b)(4)

Rqmt Prov: WQ0011263001 PERMIT

Description: At the time of the investigation, the clarifier screenings were not kept in a covered storage receptacle.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.7(e)

Rqmt Prov: WQ0011263001 PERMIT

Description: Failure by permittee to ensure that main wastewater treatment plant is secure.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: WQ0011263001 PERMIT

Description: Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the skimmer wiper arm serving the clarifier was missing, debris was accumulating on the surface of the clarifier; and floating solids in the chlorine contact chamber were passing over the weir

Classification: Moderate

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

Rqmt Prov: Permit Conditions 2.g. PERMIT

Description: Failed to prevent the discharge of wastewater to non-permitted pond area, in violation of the permit.

Classification: Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.121(c)
30 TAC Chapter 305, SubChapter F 305.125(4)

Rqmt Prov: Permit Conditions No. 2.d. PERMIT

Description: Failed to prevent an unauthorized disposal of waste (sludge) into or adjacent to water in the state. Specifically, a large pile of dried sludge had been placed outside of the drying beds.

Classification: Moderate

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

Rqmt Prov: Effl. Limitations & Monitoring Req. No1 PERMIT

Description: Failed to comply with permitted effluent limitations, resulting in an unauthorized discharge of waste into water in the state.

Classification: Major

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

30 TAC Chapter 305, SubChapter F 305.125(4)

Rqmt Prov: Permit Condition 2.d. PERMIT

Description: Failure by the permittee to prevent the discharge of sludge to the receiving waters.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(g)(1)(C)

Rqmt Prov: WQ0011263-001 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. One of two rotors was not functional.

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	03/09/2006	(473870)
2	11/29/2005	(473872)
3	01/06/2006	(473873)
4	05/19/2006	(501853)
5	06/26/2006	(501854)
6	08/22/2006	(524133)
7	07/20/2006	(524134)
8	09/15/2006	(524135)
9	09/15/2006	(524136)

10	10/04/2006	(549088)
11	03/08/2007	(582636)
12	04/05/2007	(582637)
13	06/07/2007	(582638)
14	06/26/2007	(582639)
15	07/24/2007	(582640)
16	01/04/2007	(582641)
17	01/04/2007	(582642)
18	02/12/2007	(582643)
19	09/20/2007	(603647)
20	11/27/2007	(622339)
21	01/02/2008	(622340)
22	01/25/2008	(622341)
23	02/22/2008	(674023)
24	04/23/2008	(674024)
25	04/23/2008	(674025)
26	06/03/2008	(692320)
27	08/19/2008	(713425)
28	01/22/2009	(729480)
29	01/22/2009	(729481)
30	01/22/2009	(729482)
31	03/18/2009	(752698)
32	10/08/2009	(777160)
33	01/05/2010	(810678)
34	05/21/2010	(827860)
35	06/22/2010	(832955)
36	06/22/2010	(832956)
37	06/22/2010	(832957)
38	06/22/2010	(832958)
39	06/22/2010	(832959)
40	06/22/2010	(832960)
41	10/15/2010	(859997)
42	05/31/2010	(861410)
43	07/28/2010	(867665)

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

Date:	10/31/2005	(473872)	CN600343404
Self Report? YES			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006	(524135)	CN600343404
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:	03/31/2007	(524133)	CN600343404
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:	05/31/2008	(713425)	CN600343404

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:	08/31/2009 CN600343404	
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 CN600343404	
Self Report? YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	10/31/2009 (810678) CN600343404	
Self Report? YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	11/30/2009 (832959) CN600343404	
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 (832960) CN600343404	
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 (832955) CN600343404	
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 (832956) CN600343404	
Self Report? YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	03/31/2010 (832957) CN600343404	
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 (832958) CN600343404	
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:	05/21/2010 (827860) CN600343404	
Self Report? NO		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report? NO		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report? NO		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	

Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification	Moderate
Date	05/31/2010 (861410) CN600343404		
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 TROY
RN102844321**

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

AGREED ORDER DOCKET NO. 2010-1780-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 Troy ("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 at 1111 North Central Access Road, approximately 5,500 feet north of the center of Troy and lying between Interstate Highway 35 and the Missouri, Kansas, and Texas Railroad in Bell 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 October 19, 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 Six Thousand Eight Hundred Eighty Dollars (\$6,880) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Five Hundred Four Dollars (\$5,504) of the administrative penalty and One Thousand Three Hundred Seventy-Six Dollars (\$1,376) 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. WQ0011263001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on September 7, 2010, and shown in the attached table:

EFFLUENT VIOLATION TABLE					
Months	Flow Daily Avg.	Ammonia Nitrogen Daily Avg. Conc.	Ammonia Nitrogen Daily Avg. Loading	Chlorine Residual Min.	Chlorine Residual Max.
	Limit = 0.309 MGD	Limit = 3 mg/L	Limit = 7.7 lbs/day	Min. = 1.0 mg/L	Max. = 4.0 mg/L
August 2009	c	c	c	0.51	c
September 2009	c	c	c	0.50	c
October 2009	0.520	c	9.01	0.46	c
November 2009	0.359	c	c	c	c
December 2009	c	c	c	0.46	c
January 2010	c	5.06	c	0.75	c
February 2010	0.390	c	c	0.25	c
March 2010	c	c	c	0.30	c
April 2010	c	c	c	0.40	4.4
May 2010	c	6.2	c	0.34	c

Max = maximum
 mg/L = milligrams per liter
 Min. = minimum
 c = compliant

Conc. = concentration
 MGD = million gallons per day
 lbs/day = pounds per day

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 Troy, Docket No. 2010-1780-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. WQ0011263001, 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 Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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

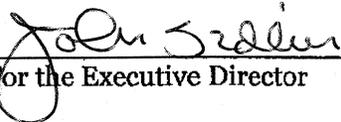
exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

3/15/2011

Date

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

2011-1-12

Date

Jeff Browning, PhD

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

Mayor

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.