EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2011-0206-MWD-E **TCEQ ID:** RN102342201 **CASE NO.:** 41117
RESPONDENT NAME: Skidmore Water Supply Corporation

ORDER TYPE:		
__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Skidmore Water Supply Corporation, located approximately 1,000 feet north of the end of Black Ranch Road and approximately 4,500 feet east and 4,200 feet north of the intersection of Farm-to-Market Road 797 and United States Route 181, Bee County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: X **Yes** ___ **No**

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 16, 2011. No comments were received.

CONTACTS AND MAILING LIST:

SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Keith Petrus, President, Skidmore Water Supply Corporation, P.O. Box 290, Skidmore, Texas 78389
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Record Review Relating to this Case:** January 12, 2011 **Date of NOV/NOE Relating to this Case:** January 26, 2011 (NOE) **Background Facts:** This was a records review. **WATER** 1) Failed to comply with permitted effluent limitations for ammonia nitrogen and total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014112001, Monitoring and Reporting Requirements No. 1]. 2) Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0014112001, Monitoring and Reporting Requirements No. 1].	**Total Assessed:** $6,097 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $6,097 **Compliance History Classification:** Person/CN – Average Site/RN – Average **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** The Respondent has had three repeated enforcement actions over the prior five year period for the same violation.	**Corrective Actions Taken:** The Executive Director recognizes that on February 7, 2011, the Respondent submitted a revised discharge monitoring report with the missing ammonia nitrogen grab sample data and developed a procedure to ensure that all data and reports are timely submitted. **Ordering Provisions:** The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014112001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Additional ID No(s).: TPDES Permit No. 0014112001

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES						
Assigned	31-Jan-2011					
PCW	3-Feb-2011	**Screening**	3-Feb-2011	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Skidmore Water Supply Corporation		
Reg. Ent. Ref. No.	RN102342201		
Facility/Site Region	14-Corpus Christi	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	41117	**No. of Violations**	2
Docket No.	2011-0206-MWD-E	**Order Type**	Findings
Media Program(s)	Water Quality	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Thomas Jecha, P.G.
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: $3,100

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*: $3,007

Notes: Enhancement for one final enforcement order containing a denial of liability, 13 months of self-reported effluent violations, two NOVs with same/similar violations, and one NOV with dissimilar violations.

Culpability — No — 0.0% Enhancement — *Subtotal 4*: $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5*: $10

Economic Benefit — 0.0% Enhancement* — *Subtotal 6*: $0

**Capped at the Total EB $ Amount*

Total EB Amounts: $742
Approx. Cost of Compliance: $10,100

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $6,097

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0.0% — *Adjustment*: $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: $6,097

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $6,097

DEFERRAL — 0.0% Reduction — *Adjustment*: $0

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY: $6,097

Screening Date 3-Feb-2011 **Docket No.** 2011-0206-MWD-E **PCW**

Respondent Skidmore Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 41117

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102342201

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

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 (*number of NOVs meeting criteria*)	15	75%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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 one final enforcement order containing a denial of liability, 13 months of self-reported effluent violations, two NOVs with same/similar violations, and one NOV with dissimilar violations.

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

Screening Date 3-Feb-2011 **Docket No.** 2011-0206-MWD-E **PCW**

Respondent Skidmore Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 41117 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102342201

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

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. WQ0014112001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on January 12, 2011 (see attached table).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>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. 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.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 3 — 123 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $3,000

Economic Benefit (EB) for this violation

Estimated EB Amount $741

Statutory Limit Test

Violation Final Penalty Total $5,910

This violation Final Assessed Penalty (adjusted for limits) $5,910

Economic Benefit Worksheet

Respondent Skidmore Water Supply Corporation
Case ID No. 41117
Reg. Ent. Reference No. RN102342201
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				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-Mar-2010	23-Sep-2011	1.48	$741	n/a	$741
Notes for DELAYED costs	Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. The date required is the month the first non-compliant excursion was documented and the 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 $741

Screening Date 3-Feb-2011 **Docket No.** 2011-0206-MWD-E **PCW**

Respondent Skidmore Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 41117 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102342201

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0014112001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, a single grab sample value for ammonia nitrogen was not included in the discharge monitoring report ("DMR") submitted for the period ending November 30, 2010.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 1 — 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction — $10

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

Notes: Compliance was achieved on February 7, 2011.

Violation Subtotal $90

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $187

This violation Final Assessed Penalty (adjusted for limits) $187

Economic Benefit Worksheet

Respondent Skidmore Water Supply Corporation
Case ID No. 41117
Reg. Ent. Reference No. RN102342201
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				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)	$100	20-Dec-2010	7-Feb-2011	0.13	$1	n/a	$1

Notes for DELAYED costs: Estimated cost to submit a revised DMR that includes the missing data and develop a procedure to ensure that all data and reports are timely submitted. The date required is the date the DMR data is required to be submitted and the final date is the 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 $100

TOTAL $1

Effluent Limit Violation Table

Respondent	**Skidmore Water Supply Corporation**
ID Number(s)	**TPDES Permit No. WQ0014112001**
Docket Number	**2011-0206-MWD-E**

Corresponds to Violation Number: 1

	EFFLUENT PARAMETER		
	Permit Limit		
	Ammonia Nitrogen (Daily Average Concentration)	Ammonia Nitrogen (Single Grab)	Total Suspended Solids (Daily Average Concentration)
Month/Year	3 mg/L	15 mg/L	15 mg/L
March 2010	c	c	21.4
August 2010	6.32	23	c
September 2010	5.84	c	c
October 2010	4.63	18.2	c

c = compliant mg/L = milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator:	CN601234636	Skidmore Water Supply Corporation	Classification: AVERAGE	Rating: 2.30
Regulated	RN102342201	SKIDMORE WATER SUPPLY CORPORTION	Classification: AVERAGE	Site Rating: 2.30
ID Number(s):	WASTEWATER		PERMIT	WQ0014112001
	WASTEWATER		EPA ID	TX0119407
	UTILITIES		REGISTRATION	12996

Location: approximately 1,000 feet north of the end of Black Ranch Road and approximately 4,500 feet east and 4,200 feet north of the intersection of Farm-to-Market Road 797 and United States Route 181, Bee Co, Tx

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 02, 2011

Agency Decision Requiring Compliance: Enforcement

Compliance Period: February 02, 2006 to February 02, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Jecha Phone: 239 - 2576

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

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: 10/04/2009 ADMINORDER 2009-0694-MWD-E

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Reporting Requirements PERMIT
Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

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.)

		(454677)
1	03/24/06	
2	02/09/06	(492730)
3	03/10/06	(492731)

4	04/10/06	(506403)
5	05/10/06	(506404)
6	06/12/06	(506405)
7	07/12/06	(528623)
8	08/04/06	(528624)
9	09/11/06	(528625)
10	02/08/07	(631716)
11	03/07/07	(631717)
12	04/04/07	(631718)
13	05/03/07	(631719)
14	06/06/07	(631720)
15	07/06/07	(631721)
16	08/09/07	(631722)
17	09/07/07	(631723)
18	10/16/06	(631724)
19	10/04/07	(631725)
20	11/09/06	(631726)
21	11/06/07	(631727)
22	12/11/06	(631728)
23	12/07/07	(631729)
24	01/05/07	(631730)
25	01/09/08	(631731)
26	02/07/08	(677385)
27	03/05/08	(677386)
28	04/09/08	(677387)
29	05/12/08	(696086)
30	06/06/08	(696087)
31	07/03/08	(696088)
32	01/15/09	(709571)
33	08/08/08	(717735)
34	09/25/08	(717736)
35	10/08/08	(717737)
36	11/13/08	(733060)
37	12/15/08	(733061)
38	01/07/09	(733062)
39	02/24/09	(735935)
40	05/01/09	(741882)
41	05/22/09	(744425)
42	02/06/09	(756229)
43	03/09/09	(756230)
44	04/09/09	(756231)
45	05/06/09	(773208)
46	06/10/09	(773209)
47	09/25/09	(776699)
48	02/19/10	(791584)
49	05/04/10	(800130)
50	06/18/10	(825034)

51 05/19/10 (836180)

52 06/14/10 (847902)

53 07/19/10 (862316)

54 08/16/10 (868928)

55 09/17/10 (875784)

56 10/18/10 (883363)

57 11/15/10 (889754)

58 01/27/11 (891135)

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

Date: 02/28/2006 (492731) CN601234636

Self 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: 03/24/2006 (454677) CN601234636

Self NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TCEQ Number WQ0014112-001 PERMIT

Description: Failure to provide a minimum chlorine residual of at least 1.0 milligrams per liter.

Self NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TCEQ Number WQ0014112-001 PERMIT

Description: Failure to maintain compliance with permitted flow limits.

Date: 03/31/2006 (506403) CN601234636

Self 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: 09/30/2006 (631724) CN601234636

Self 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: 01/31/2007 (631716) CN601234636

Self 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: 02/28/2007 (631717) CN601234636

Self 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: 03/31/2007 (631718) CN601234636

Self 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: 04/30/2007 (631719) CN601234636

Self 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: 11/30/2008 (733061) CN601234636

Self 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: 12/31/2008 (733062) CN601234636
Self 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: 01/15/2009 (709571) CN601234636
Self NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0014112-00 PERMIT
Description: Failure to maintain compliance with permitted effluent limit for ammonia nitrogen daily average.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.6
30 TAC Chapter 319, SubChapter A 319.9(c)
TPDES Permit No. WQ00 14112-001 PERMIT
Description: Failure to conduct and maintain appropriate records for quality assurance/quality control procedures for chlorine residual, dissolved oxygen and pH analysis.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0014112-001 PERMIT
Description: Failure to maintain compliance with permitted effluent limits for minimum chlorine residual.

Date: 03/31/2010 CN601234636
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 05/04/2010 (800130) CN601234636
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)
30 TAC Chapter 30, SubChapter J 30.350(d)
TPDES Permit No. WQ0014112-001 PERMIT
Description: Failure to obtain a required occupational license to operate a wastewater treatment plant.
Date 08/31/2010 (875784) CN601234636
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 09/30/2010 (883363) CN601234636
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 10/31/2010 (889754) CN601234636
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 SKIDMORE WATER SUPPLY CORPORATION RN102342201	**§**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0206-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 Skidmore Water Supply Corporation ("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 wastewater treatment plant located approximately 1,000 feet north of the end of Black Ranch Road and approximately 4,500 feet east and 4,200 feet north of the intersection of Farm-to-Market Road 797 and United States Route 181 in Bee 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 January 12, 2011, TCEQ staff documented exceedances of the permitted effluent limits as shown in the following table:

	Ammonia Nitrogen (Daily Average Concentration)	Ammonia Nitrogen (Single Grab)	Total Suspended Solids (Daily Average Concentration)
Month/Year	3 mg/L	15 mg/L	15 mg/L
March 2010	c	c	21.4
August 2010	6.32	23	c
September 2010	5.84	c	c
October 2010	4.63	18.2	c

mg/L = milligrams per liter, c = compliant

4. During a record review on January 12, 2011, TCEQ staff documented that a single grab sample value for ammonia nitrogen was not included in the discharge monitoring report ("DMR") submitted for the monitoring period ending November 30, 2009.

5. The Respondent received notice of the violations on January 28, 2011.

6. The Executive Director recognizes that on February 7, 2011 the Respondent submitted a revised DMR with the missing ammonia nitrogen grab sample data and developed a procedure to ensure that all data and reports are timely submitted.

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 limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014112001, Effluent Limitations and Monitoring Requirements No. 1.

3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0014112001, Monitoring and Reporting Requirements No. 1.

4. 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.

5. An administrative penalty in the amount of Six Thousand Ninety-Seven Dollars ($6,097) 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 the Six Thousand Ninety-Seven Dollar ($6,097) administrative penalty.

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 Six Thousand Ninety-Seven Dollars ($6,097) as set forth in Section II, Paragraph 5 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: Skidmore Water Supply Corporation, Docket No. 2011-0206-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 the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014112001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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. 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.

7. 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.

8. 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.

9. 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.

10. 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

_____ 4/21/2011
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Skidmore Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Skidmore Water Supply Corporation, 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, Skidmore Water Supply Corporation 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.

_____ 3-9-11
Signature Date

KEITH PETRUS PRESIDENT
Name (Printed or typed) Title
Authorized Representative of
Skidmore Water Supply Corporation

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.