

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2010-2049-MWD-E **TCEQ ID:** RN102844560 **CASE NO.:** 40887
RESPONDENT NAME: City of Tenaha

| | | |
|---|--|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 166o 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 |

SITE WHERE VIOLATION(S) OCCURRED: Tenaha WWTP, located adjacent to Hilliard Creek, approximately 2,400 feet south of United States ("U.S.") Highway 84 and 3,300 feet east of U.S. Highway 96, Shelby County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: 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 2, 2011. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: The Honorable George N. Bowers, Mayor, City of Tenaha, P.O. Box 70, Tenaha, Texas 75974-0070
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> 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: November 23, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to submit noncompliance notifications for effluent violations which deviate from the permitted effluent limitation by more than 40 percent (“%”) within five working days of becoming aware of the noncompliance. Specifically, the ammonia nitrogen daily average concentration in August 2009 and April 2010, and the total suspended solids reported values in October, November, and December 2009 and January 2010 exceeded the permitted limits by more than 40%, but the TCEQ did not receive the required noncompliance notifications [30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and Texas Pollutant Discharge and Elimination Permit (“TPDES”) No. WQ0010818001, Monitoring and Reporting Requirements No. 7.c.].</p> <p>2) Failed to timely submit the annual sludge report for the period ending July 31, 2010. Specifically, a copy of the annual sludge report due by September 30, 2010 was not submitted to the TCEQ Beaumont Regional Office until November 2, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES No. WQ0010818001, Sludge Provisions].</p> <p>3) Failed to completely fence the Facility. Specifically, the perimeter fence near Outfall 001 was damaged by</p> | <p>Total Assessed: \$9,806</p> <p>Total Deferred: \$1,961 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,845</p> <p>Total Paid (Due) to General Revenue: \$0</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By October 11, 2010, removed debris and scum from the clarifier weirs and provided three trash cans with lids for the bar screenings;</p> <p>b. By November 2, 2010, repaired the pump and alarm at the Fallin Place Lift Station, repaired the barbed wire on the fence at the Roberts Road Lift Station, locked the fence at the Fallin Place Lift Station, and removed vegetation, debris, and scum from the Imhoff tank; and</p> <p>c. By November 12, 2010, repaired fencing surrounding the Facility that had been damaged by a fallen tree.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A.)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished, including procedures to ensure the written reports for effluent violations that deviate by more than 40% from the permitted limit are properly submitted to the TCEQ, and that the annual sludge reports are submitted annually to both the TCEQ Beaumont Regional Office and the Enforcement Division; and</p> <p>ii. Begin recording and maintaining records of the time each sample is</p> |

| | | |
|---|--|--|
| <p>a fallen tree, failing to protect the Facility from intrusion [30 TEX. ADMIN. CODE § 317.7(e)].</p> <p>4) Failed to maintain records of the time each sample was collected. Specifically, one collection time was recorded for multiple samples, on the chain of custody forms [30 TEX. ADMIN. CODE § 319.7(a)(1) and TPDES No. WQ0010818001, Monitoring and Reporting Requirements Nos. 1 and 3.c.i.].</p> <p>5) Failed to properly operate and maintain the Facility and all of its systems of treatment and collection. Specifically, the overflow weirs in the clarifier had debris and scum clogging the weirs and a suitable container with a lid was not provided for bar screenings [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(b)(4) and TPDES No. WQ0010818001, Operational Requirements No. 1].</p> <p>6) Failed to properly operate and maintain the Facility and all of its systems of treatment and collection. Specifically, Pump No. 2 was clogged, the audio/visual alarm was not operating, and the perimeter fence around the Fallin Place Lift Station was not locked. Additionally, the fence around the Robertson Lift Station had broken strands of barbed wire [30 TEX. ADMIN. CODE §§ 305.125(5), 317.3(a) and (e)(5), and 317.7(e) and TPDES No. WQ0010818001, Operational Requirements No. 1].</p> <p>7) Failed to properly operate and maintain the Facility and all of its systems of treatment and collection. Specifically, the Imhoff tank side vents contained vegetation that covered most of the area on the vents, and the center of the Imhoff tank contained an excessive amount of vegetation, debris, and scum [30 TEX. ADMIN. CODE § 305.125(5) and TPDES No. WQ0010818001, Operational Requirements No. 1].</p> | | <p>collected.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.</p> |
|---|--|--|

Additional ID No(s): WQ0010818001

Attachment A
Docket Number: 2010-2049-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Tenaha

Payable Penalty Amount: Seven Thousand Eight Hundred Forty-Five Dollars (\$7,845)

SEP Amount: Seven Thousand Eight Hundred Forty-Five Dollars (\$7,845)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance

Location of SEP: Shelby County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 29-Nov-2010 | Screening | 16-Dec-2010 | EPA Due | |
| | PCW | 19-Jan-2011 | | | | |

| | |
|--|----------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Tenaha |
| Reg. Ent. Ref. No. | RN102844560 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | No. of Violations | 7 |
| Enf./Case ID No. | 40887 | Order Type | 1660 |
| Docket No. | 2010-2049-MWD-E | Government/Non-Profit | Yes |
| Media Program(s) | Water Quality | Enf. Coordinator | Merrilee Hupp |
| Multi-Media | | 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 | \$9,200 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|--------------------|--------------------------------|---------|
| Compliance History | 103.0% Enhancement | Subtotals 2, 3, & 7 | \$9,476 |
|---------------------------|--------------------|--------------------------------|---------|

Notes: Enhancement for 27 months of self-reported effluent violations, one NOV with same/similar violations, two NOVs with dissimilar violations, and two orders with denial of liability.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| 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 | \$750 |
|--|-------------------|-------|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$39
 Approx. Cost of Compliance: \$2,904
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$17,926 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|--------|-------------------|----------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | -45.3% | Adjustment | -\$8,120 |
|---|--------|-------------------|----------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in the penalty so that reporting violations do not overly impact the penalty amount.

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$9,806 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$9,806 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|-----------------|-------------------|----------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$1,961 |
|-----------------|-----------------|-------------------|----------|

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

Notes: Deferral offered for expedited settlement.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$7,845 |
|------------------------|---------|

Screening Date 16-Dec-2010

Docket No. 2010-2049-MWD-E

PCW

Respondent City of Tenaha

Policy Revision 2 (September 2002)

Case ID No. 40887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844560

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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>) | 1 | 5% |
| | Other written NOVs | 29 | 58% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 2 | 40% |
| | 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) 103%

>> 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 27 months of self-reported effluent violations, one NOV with same/similar violations, two NOVs with dissimilar violations, and two orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 103%

Screening Date 16-Dec-2010

Docket No. 2010-2049-MWD-E

PCW

Respondent City of Tenaha

Policy Revision 2 (September 2002)

Case ID No. 40887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844560

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (9)(A) and Texas Pollutant Discharge and Elimination Permit ("TPDES") No. WQ0010818001, Monitoring and Reporting Requirements No. 7.c.

Violation Description Failed to submit noncompliance notifications for effluent violations which deviate from the permitted effluent limitation by more than 40 percent (%) within five working days of becoming aware of the noncompliance. Specifically, the ammonia nitrogen daily average concentration in August 2009 and April 2010, and the total suspended solids reported values in October, November, and December 2009 and January 2010 exceeded the permitted limits by more than 40%, but the TCEQ did not receive the required noncompliance notifications.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 0% |
| | Potential | | | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Harm | | | Percent |
|--------------|---------------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | | X | | | 10% |

Matrix Notes 100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6 Number of violation days 100

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

Violation Base Penalty \$6,000

Six single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

| | Reduction | |
|---------------|------------|-------------------------------|
| | 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 \$6,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$6,663

This violation Final Assessed Penalty (adjusted for limits) \$6,663

Economic Benefit Worksheet

Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
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 | \$250 | 7-Sep-2009 | 31-Jul-2011 | 1.90 | \$24 | n/a | \$24 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to update operational guidance and conduct employee training to ensure that noncompliance notifications are submitted, along with the annual reporting requirements described by Violation No. 2. Date required is the date the first report was due. 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

\$250

TOTAL

\$24

Screening Date 16-Dec-2010

Docket No. 2010-2049-MWD-E

PCW

Respondent City of Tenaha

Policy Revision 2 (September 2002)

Case ID No. 40887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844560

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(17) and TPDES No. WQ0010818001, Sludge Provisions

Violation Description

Failed to timely submit the annual sludge report to the TCEQ Regional Office for the period ending July 31, 2010. Specifically, a copy of the annual sludge report due by September 30, 2010 was not submitted to the TCEQ Beaumont Regional Office until November 2, 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

Over 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

33 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$111

This violation Final Assessed Penalty (adjusted for limits) \$111

Economic Benefit Worksheet

Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
Media Water Quality
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

See economic benefit for Violation No. 1.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 16-Dec-2010

Docket No. 2010-2049-MWD-E

PCW

Respondent City of Tenaha

Policy Revision 2 (September 2002)

Case ID No. 40887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844560

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 317.7(e)

Violation Description

Failed to completely fence the Facility, as documented during the investigation conducted on October 7, 2010. Specifically, the perimeter fence near Outfall No. 001 was damaged by a fallen tree, failing to protect the Facility from intrusion.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 10% |
| | Potential | | X | | |

>> Programmatic Matrix

| Falsification | Harm | | | Percent |
|---------------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| | | | | 0% |

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 13 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the October 7, 2010 investigation date to the November 12, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent achieved compliance by November 12, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$974

This violation Final Assessed Penalty (adjusted for limits) \$974

Economic Benefit Worksheet

Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
Media Water Quality
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,500 | 7-Oct-2010 | 12-Nov-2010 | 0.10 | \$7 | n/a | \$7 |

Notes for DELAYED costs

Actual cost to repair fencing. Date required is the investigation date and final date is when compliance was achieved.

Avoided Costs

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$7

Screening Date 16-Dec-2010
Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
Media [Statute] Water Quality
Enf. Coordinator Merrilee Hupp
Violation Number 4

Docket No. 2010-2049-MWD-E

PCW

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

Rule Cite(s) 30 Tex. Admin. Code § 319.7(a)(1) and TPDES No. WQ0010818001, Monitoring and Reporting Requirements Nos. 1 and 3.c.i.

Violation Description Failed to maintain records of the time each sample was collected, as documented during the investigation conducted on October 7, 2010. Specifically, one collection time was recorded for multiple samples on the chain of custody forms.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 0% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | x | 1% |

Matrix Notes Over 70% of the requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$111

This violation Final Assessed Penalty (adjusted for limits) \$111

Economic Benefit Worksheet

Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
Media Water Quality
Violation No. 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | \$100 | 7-Oct-2010 | 31-Jul-2011 | 0.81 | \$4 | n/a | \$4 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to ensure that the collection time is recorded for each sample collected. Date required is the investigation date and 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 \$100

TOTAL \$4

Screening Date 16-Dec-2010

Docket No. 2010-2049-MWD-E

PCW

Respondent City of Tenaha

Policy Revision 2 (September 2002)

Case ID No. 40887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844560

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(5) and 317.4(b)(4) and TPDES No. WQ0010818001, Operational Requirements No. 1

Violation Description

Failed to properly operate and maintain the Facility and all of its systems of treatment and collection, as documented during the investigation conducted on October 7, 2010. Specifically, the overflow weirs in the clarifier had debris and scum clogging the weirs and a suitable container with a lid was not provided for bar screenings.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|---------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| Actual | | | | | 5% |
| Potential | | | x | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | | | Percent |
|--------------|---------------|----------|-------|---------|
| | Major | Moderate | Minor | |
| | | | | 0% |

Matrix Notes

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

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 4

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

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$125

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

Notes The Respondent achieved compliance by October 11, 2010.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$487

This violation Final Assessed Penalty (adjusted for limits) \$487

Economic Benefit Worksheet

Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
Media Water Quality
Violation No. 5

| 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 | \$120 | 7-Oct-2010 | 11-Oct-2010 | 0.01 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Actual cost to remove debris and scum from weirs in clarifier and to provide three trash cans with lids (\$35 each) for bar screenings. Date required is the investigation date and final date is when compliance was achieved.

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

\$120

TOTAL

\$0

Screening Date 16-Dec-2010
Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
Media [Statute] Water Quality
Enf. Coordinator Merrilee Hupp
Violation Number 6

Docket No. 2010-2049-MWD-E

PCW

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

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(5), 317.3(a) and (e)(5), and 317.7(e) and TPDES No. WQ0010818001, Operational Requirements No. 1

Violation Description Failed to properly operate and maintain the Facility and all of its systems of treatment and collection, as documented during the investigation conducted on October 7, 2010. Specifically, Pump No. 2 was clogged, the audio/visual alarm was not operating, and the perimeter fence around the Fallin Place Lift Station was not locked; and the fence around the Robertson Lift Station had broken strands of barbed wire.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 10% |
| Potential | | x | | |

>> Programmatic Matrix

| Falsification | Harm | | | Percent |
|---------------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| | | | | 0% |

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended from the October 7, 2010 investigation date to the November 2, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent achieved compliance by November 2, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$974

This violation Final Assessed Penalty (adjusted for limits) \$974

Economic Benefit Worksheet

Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
Media Water Quality
Violation No. 6

| 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) | \$889 | 7-Oct-2010 | 2-Nov-2010 | 0.07 | \$3 | n/a | \$3 |

Notes for DELAYED costs

Actual cost to repair the pump and alarm at the Fallin Place Lift Station, repair the barbed wire on the fence at the Roberts Road Lift Station, and lock the fence at the Fallin Place Lift Station. The date required is the investigation date and the final date is the date documentation of compliance was received by the TCEQ Beaumont Regional Office.

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

\$889

TOTAL

\$3

Screening Date 16-Dec-2010

Docket No. 2010-2049-MWD-E

PCW

Respondent City of Tenaha

Policy Revision 2 (September 2002)

Case ID No. 40887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844560

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and TPDES No. WQ0010818001, Operational Requirements No. 1

Violation Description

Failed to properly operate and maintain the Facility and all of its systems of treatment and collection, as documented during the investigation conducted on October 7, 2010. Specifically, the Imhoff tank side vents contained vegetation that covered most of the area on the vents, and the center of the Imhoff tank contained an excessive amount of vegetation, debris, and scum.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | x |

Percent 5%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0%

Matrix Notes

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

Adjustment \$9,500

\$500

Violation Events

1

26 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$125

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

Notes The Respondent achieved compliance by November 2, 2010.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$487

This violation Final Assessed Penalty (adjusted for limits) \$487

Economic Benefit Worksheet

Respondent City of Tenaha
Case ID No. 40887
Reg. Ent. Reference No. RN102844560
Media Water Quality
Violation No. 7

| 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) | \$45 | 7-Oct-2010 | 2-Nov-2010 | 0.07 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Actual cost of removing vegetation, debris, and scum from the Imhoff tank. Date required is the investigation date and final date is the date compliance documentation was received by the TCEQ Beaumont Regional Office.

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

\$45

TOTAL

\$0

Rqmt Prov: Sludge Reporting Requirements PERMIT

Description: Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009.

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.)

| | | |
|----|------------|----------|
| | | (474714) |
| 1 | 02/17/2006 | |
| 2 | 03/27/2006 | (474715) |
| 3 | 04/24/2006 | (502443) |
| 4 | 05/19/2006 | (502444) |
| 5 | 06/16/2006 | (502445) |
| 6 | 11/29/2006 | (517709) |
| 7 | 07/20/2006 | (524761) |
| 8 | 08/04/2006 | (524762) |
| 9 | 09/25/2006 | (524763) |
| 10 | 12/22/2006 | (534281) |
| 11 | 10/27/2006 | (549702) |
| 12 | 11/29/2006 | (549703) |
| 13 | 02/20/2007 | (583756) |
| 14 | 03/16/2007 | (583757) |
| 15 | 04/16/2007 | (583758) |
| 16 | 05/16/2007 | (583759) |
| 17 | 06/18/2007 | (583760) |
| 18 | 01/10/2007 | (583761) |
| 19 | 02/20/2007 | (583762) |
| 20 | 07/18/2007 | (604037) |
| 21 | 08/17/2007 | (604038) |
| 22 | 09/24/2007 | (604039) |
| 23 | 02/22/2008 | (617355) |
| 24 | 10/15/2007 | (622925) |
| 25 | 11/19/2007 | (622926) |
| 26 | 12/13/2007 | (622927) |
| 27 | 02/14/2008 | (674366) |
| 28 | 03/20/2008 | (674367) |
| 29 | 01/17/2008 | (674368) |
| 30 | 06/19/2008 | (680591) |
| 31 | 08/21/2008 | (688701) |
| 32 | 04/18/2008 | (692714) |
| 33 | 05/22/2008 | (692715) |
| 34 | 06/16/2008 | (713845) |
| 35 | 07/14/2008 | (713846) |
| 36 | 09/17/2008 | (713847) |
| 37 | 09/17/2008 | (713848) |
| 38 | 11/14/2008 | (729851) |
| 39 | 12/10/2008 | (729852) |
| 40 | 06/05/2009 | (747129) |
| 41 | 02/12/2009 | (753086) |
| 42 | 01/20/2009 | (753087) |

| | | |
|----|------------|----------|
| 43 | 03/27/2009 | (770643) |
| 44 | 04/20/2009 | (770644) |
| 45 | 05/26/2009 | (770645) |
| 46 | 05/07/2010 | (798083) |
| 47 | 05/20/2010 | (800064) |
| 48 | 02/12/2010 | (811700) |
| 49 | 06/26/2009 | (811701) |
| 50 | 07/21/2009 | (811702) |
| 51 | 08/13/2009 | (811703) |
| 52 | 10/05/2009 | (811704) |
| 53 | 01/14/2010 | (811705) |
| 54 | 03/15/2010 | (833303) |
| 55 | 04/26/2010 | (833304) |
| 56 | 05/26/2010 | (833305) |
| 57 | 05/28/2010 | (833306) |
| 58 | 05/28/2010 | (833307) |
| 59 | 05/28/2010 | (833308) |
| 60 | 06/17/2010 | (847024) |
| 61 | 11/23/2010 | (871693) |
| 62 | 10/22/2010 | (882346) |

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

| | | | | |
|--------------|---|-------------|-----------------|----------|
| Date: | 01/31/2006 (474714) | CN600338065 | | |
| 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: | 02/28/2006 (474715) | CN600338065 | | |
| 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: | 03/31/2006 (502443) | CN600338065 | | |
| 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: | 04/30/2006 (502444) | CN600338065 | | |
| 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: | 05/31/2006 (502445) | CN600338065 | | |
| 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: | 06/30/2006 (524761) | CN600338065 | | |
| 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 (524762) | CN600338065 | | |
| 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: | 08/31/2006 (524763) | CN600338065 | | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |

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|--------------|---|----------|--------------------------|
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 09/30/2006 | (549702) | CN600338065 |
| 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: | 10/31/2006 | (549703) | CN600338065 |
| 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: | 11/30/2006 | (583761) | CN600338065 |
| 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: | 12/31/2006 | (583762) | CN600338065 |
| 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: | 01/31/2007 | (583756) | CN600338065 |
| 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: | 02/28/2007 | (583757) | CN600338065 |
| 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: | 04/30/2007 | (583759) | CN600338065 |
| 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: | 06/20/2008 | (680591) | CN600338065 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 30, SubChapter J 30.331(b) 30 TAC Chapter 30, SubChapter J 30.350(d) OT 1, Pg 23 PERMIT | | |
| Description: | Failure by the City of Tenaha to have a licensed operator operate the wastewater treatment plant a minimum of 5 days per week. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i) | | |
| Description: | Failure by the City of Tenaha to maintain an air gap or testable backflow prevention device on the public water supply line to the wastewater treatment plant. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | OpR 3b, Pg. 10 PERMIT | | |
| Description: | Failure by the City of Tenaha to submit a closure plan for review and approval to the Land Application Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | OpR 1, Pg. 9 PERMIT | | |
| Description: | Failure by the City of Tenaha to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | PC 2g, Pg. 7 PERMIT | | |
| Description: | Failure by the City of Tenaha to prevent the unauthorized discharge of wastewater. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | D&SPC 1b, Pg. 3 PERMIT | | |
| Description: | Failure by the City of Tenaha to properly calculate the daily average flow. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | M&RR 5, Pg. 5 PERMIT | | |

Description: Failure by the City of Tenaha to ensure that all automatic flow measuring devices are accurately calibrated as often as necessary to ensure accuracy.

Self Report? NO Classification: Minor

Citation: M&RR 3ci & 3cii, Pg. 5 PERMIT

Description: Failure by the City of Tenaha to maintain complete records of monitoring activities

Self Report? NO Classification: Minor

Citation: OpR 1, Pg. 9 PERMIT

Description: Failure by the City of Tenaha to maintain operations records.

Self Report? NO Classification: Moderate

Citation: M&RR 7c, Pg. 6 PERMIT

Description: Failure by the City of Tenaha to report effluent violations which deviate from the permitted effluent limitations by more than 40% to the Region 10 office and the Enforcement Division (MC 224) within 5 working days of becoming aware on the non compliance.

Self Report? NO Classification: Minor

Citation: M&RR 2, Pg. 4 PERMIT

Description: Failure by the City of Tenaha to comply with procedures specified in 30 TAC 319.11 - 319.12 for analysis of pollutants

Date: 06/30/2008 (713846) CN600338065

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: 07/31/2008 (713847) CN600338065

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: 10/31/2008 (729851) CN600338065

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: 12/31/2008 (753087) CN600338065

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: 02/26/2009 (735548) CN600338065

Self Report? NO Classification: Moderate

Citation: OpR 3b, Pg. 10 PERMIT

Description: Failure by the City of Tenaha to submit a closure plan for review and approval to the Land Application Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity.

Self Report? NO Classification: Minor

Citation: M&RR 3ci & 3cii, Pg. 5 PERMIT

Description: Failure by the City of Tenaha to maintain complete records of monitoring activities

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(c)
PC 2g PERMIT

Description: Failure by the City of Tenaha to prevent unauthorized discharge of sewage.

Self Report? NO Classification: Moderate

Citation: M&RR 7 PERMIT
TWC Chapter 26 26.039

Description: Failure by the City of Tenaha to report unauthorized discharges of sewage to the TCEQ.

Date: 08/31/2009 (811704) CN600338065

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 (833307) CN600338065

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 (833308) CN600338065

| | | | |
|--------------|--|-----------------|----------|
| 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 (811705) | CN600338065 | |
| 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 (811700) | CN600338065 | |
| 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 (833303) | CN600338065 | |
| 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 (833305) | CN600338065 | |
| 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: | 05/19/2010 (800064) | CN600338065 | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(c) PC 2g PERMIT | | |
| Description: | Failure by the City of Tenaha to prevent unauthorized discharge of sewage. | | |
| Date: | 09/30/2010 (882346) | CN600338065 | |
| 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 TENAHA
RN102844560**

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

**AGREED ORDER
DOCKET NO. 2010-2049-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 Tenaha ("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 facility located adjacent to Hilliard Creek, approximately 2,400 feet south of United States ("U.S.") Highway 84 and 3,300 feet east of U.S. Highway 96 in Shelby 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 28, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nine Thousand Eight Hundred Six Dollars (\$9,806) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Nine Hundred Sixty-One Dollars (\$1,961) 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. Seven Thousand Eight Hundred Forty-Five Dollars (\$7,845) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By October 11, 2010, removed debris and scum from the clarifier weirs and provided three trash cans with lids for the bar screenings;
 - b. By November 2, 2010, repaired the pump and alarm at the Fallin Place Lift Station, repaired the barbed wire on the fence at the Roberts Road Lift Station, locked the fence at the Fallin Place Lift Station, and removed vegetation, debris, and scum from the Imhoff tank; and
 - c. By November 12, 2010, repaired fencing surrounding the Facility that had been damaged by a fallen tree.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to submit noncompliance notifications for effluent violations which deviate from the permitted effluent limitation by more than 40 percent (%) within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and Texas Pollutant Discharge and Elimination Permit ("TPDES") No. WQ0010818001, Monitoring and Reporting Requirements No. 7.c, as documented during an investigation conducted on October 7, 2010. Specifically, the ammonia nitrogen daily average concentration in August 2009 and April 2010, and the total suspended solids reported values in October, November, and December 2009 and January 2010 exceeded the permitted limits by more than 40%, but the TCEQ did not receive the required noncompliance notifications.
2. Failed to timely submit the annual sludge report for the period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES No. WQ0010818001, Sludge Provisions, as documented during an investigation conducted on October 7, 2010. Specifically, a copy of the annual sludge report due by September 30, 2010 was not submitted to the TCEQ Beaumont Regional Office until November 2, 2010.
3. Failed to completely fence the Facility, in violation of 30 TEX. ADMIN. CODE § 317.7(e), as documented during an investigation conducted on October 7, 2010. Specifically, the perimeter fence near Outfall No. 001 was damaged by a fallen tree, failing to protect the Facility from intrusion.
4. Failed to maintain records of the time each sample was collected, as documented during the investigation conducted on October 7, 2010, in violation of 30 TEX. ADMIN. CODE § 319.7(a)(1) and TPDES No. WQ0010818001, Monitoring and Reporting Requirements Nos. 1 and 3.c.i, as documented during an investigation conducted on October 7, 2010. Specifically, one collection time was recorded for multiple samples, on the chain of custody forms.
5. Failed to properly operate and maintain the Facility and all of its systems of treatment and collection, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(b)(4) and TPDES No. WQ0010818001, Operational Requirements No. 1, as documented during an investigation conducted on October 7, 2010. Specifically, the overflow weirs in the clarifier had debris and scum clogging the weirs and a suitable container with a lid was not provided for bar screenings.
6. Failed to properly operate and maintain the Facility and all of its systems of treatment and collection, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5), 317.3(a) and (e)(5), and 317.7(e) and TPDES No. WQ0010818001, Operational Requirements No. 1, as documented during an investigation conducted on October 7, 2010. Specifically, Pump No. 2 was clogged; the audio/visual alarm was not operating, and the perimeter fence around the Fallin Place Lift Station was not locked. Additionally, the fence around the Robertson Lift Station had broken strands of barbed wire.
7. Failed to properly operate and maintain the Facility and all of its systems of treatment and collection, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES No. WQ0010818001, Operational Requirements No. 1, as documented during an investigation conducted on October 7, 2010. Specifically, the Imhoff tank side vents contained vegetation that covered most of the area on the vents, and the center of the Imhoff tank contained an excessive amount of vegetation, debris, and scum.

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 Tenaha, Docket No. 2010-2049-MWD-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Seven Thousand Eight Hundred Forty-Five Dollars (\$7,845) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished, including procedures to ensure the written reports for effluent violations that deviate by more than 40% from the permitted limit are properly submitted to the TCEQ, and that the annual sludge reports are submitted annually to both the TCEQ Beaumont Regional Office and the Enforcement Division, in accordance with TPDES No. WQ0010818001, Monitoring and Reporting Requirements No. 7.c. and Sludge Provisions; and

- ii. Begin recording and maintaining records of the time each sample is collected, in accordance with 30 TEX. ADMIN. CODE § 319.7(a)(1) and TPDES No. WQ0010818001, Monitoring and Reporting Requirements Nos. 1 and 3.c.i.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i and 3.a.ii. 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 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

- 4. 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.

- 5. 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.

6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. 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.

City of Tenaha
DOCKET NO. 2010-2049-MWD-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zedler
For the Executive Director

4-13-2011
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.

George N. Bowers
Signature

February 23, 2011
Date

George N. Bowers
Name (Printed or typed)
Authorized Representative of
City of Tenaha

Mayor, City of Tenaha
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.

Attachment A
Docket Number: 2010-2049-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Tenaha

Payable Penalty Amount: Seven Thousand Eight Hundred Forty-Five Dollars (\$7,845)

SEP Amount: Seven Thousand Eight Hundred Forty-Five Dollars (\$7,845)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)- Water or Wastewater Treatment Assistance

Location of SEP: Shelby County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.