

**CAPTION: Docket No. 2009-1288-MWD-E. Consideration of an Agreed Order assessing administrative penalties against the City of Cranfills Gap in Bosque County; RN101916492; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jeremy Escobar, Laurie Eaves)**

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-1288-MWD-E **TCEQ ID:** RN101916492 **CASE NO.:** 38107  
**RESPONDENT NAME:** City of Cranfills Gap

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>166o AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Cranfills Gap Wastewater Treatment Plant, located approximately 900 feet southeast of the intersection of State Highway 22 and Farm-to-Market Road 219 (3<sup>rd</sup> Street), Bosque County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment system</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2010-1923-MWD-E.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 11, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 149, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable David D. Witte, Mayor, City of Cranfills Gap, 312 North 3rd Street, Cranfills Gap, Texas 76637  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 10, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 22, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>Failed to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastewater in the event of an electrical power failure by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System Permit No. WQ0014169001, Operational Requirements No. 4].</p>	<p><b>Total Assessed:</b> \$4,625</p> <p><b>Total Deferred:</b> \$925  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$345 (remaining \$3,355 due in 11 monthly payments of \$305 each)</p> <p><b>Compliance History Classifications:</b>            Person/CN - Average            Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent came into compliance with the Commission's Sewer Plant Emergency Power Initiative on September 7, 2009 by purchasing and installing a stand-by emergency power generator.</p>

Additional ID No(s).: WQ0014169001



## Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	1-Aug-2009			
	PCW	14-Oct-2009	Screening	6-Aug-2009	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Cranfills Gap
Reg. Ent. Ref. No.	RN101916492
Facility/Site Region	9-Waco
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38107	No. of Violations	1
Docket No.	2009-1288-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jeremy Escobar
		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**

#### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement recommended for having one NOV for the same or similar violation, 30 NOVs for non-similar violations, and one Agreed Order with denial within the last five years.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$644
Approx. Cost of Compliance	\$24,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

**Screening Date** 6-Aug-2009

**Docket No.** 2009-1288-MWD-E

**PCW**

**Respondent** City of Cranfills Gap

Policy Revision 2 (September 2002)

**Case ID No.** 38107

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101916492

**Media [Statute]** Water Quality

**Enf. Coordinator** Jeremy Escobar

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written 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	30	60%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <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)** 85%

>> **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 recommended for having one NOV for the same or similar violation, 30 NOVs for non-similar violations, and one Agreed Order with denial within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 85%

<b>Screening Date</b> 6-Aug-2009	<b>Docket No.</b> 2009-1288-MWD-E	<b>PCW</b>		
<b>Respondent</b> City of Cranfills Gap		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 38107		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101916492				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Jeremy Escobar				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014169001, Operational Requirements No. 4			
<b>Violation Description</b>	Failed to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastewater in the event of an electrical power failure by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Release</b>	<b>Harm</b>		
		Major      Moderate      Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.			
	<b>Adjustment</b>	<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>		
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="27"/> <b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
			<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>	
	One monthly event is recommended from the investigation date, July 10, 2009, to the date of screening, August 6, 2009.			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/> <b>Reduction</b>	<input type="text" value="\$0"/>	
		<small>Before NOV      NOV to EDRP/Settlement</small>		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
		<b>Violation Subtotal</b>	<input type="text" value="\$2,500"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$644"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$4,625"/>	
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$4,625"/>	

## Economic Benefit Worksheet

**Respondent** City of Cranfills Gap  
**Case ID No.** 38107  
**Req. Ent. Reference No.** RN101916492  
**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	\$24,000	20-Apr-2009	7-Sep-2009	0.38	\$31	\$614	\$644
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

The cost paid by the Respondent for a standby generator. Date required is the investigation date which first documented the violation 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

\$24,000

**TOTAL**

\$644

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600639728 City of Cranfills Gap Classification: AVERAGE Rating: 4.22  
Regulated Entity: RN101916492 CITY OF CRANFILLS GAP Classification: AVERAGE Site Rating: 5.44  
ID Number(s): WASTEWATER PERMIT WQ0014169001  
WASTEWATER PERMIT TPDES0122360  
WASTEWATER PERMIT TX0122360  
Location: APPROXIMATELY 900 FEET SOUTHEAST OF THE INTERSECTION OF STATE HWY 22 AND FM 219 (3RD STREET) IN BOSQUE COUNTY, TEXAS  
TCEQ Region: REGION 09 - WACO  
Date Compliance History Prepared: August 06, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 06, 2004 to August 06, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Jeremy Escobar Phone: 239 - 1460

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 02/25/2008

ADMINORDER 2005-1134-MWD-E

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: TPDES Permit No. 14169-001 PERMIT

Description: Failed to ensure that the facility and all its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TAC §305.125(1) and TPDES Permit No. WQ0014169001, Operational Requirements, No. 1, as documented during an investigation conducted on July 13, 2005. Specifically, during the investigation it was noted that inflow and infiltration is adversely affected the Waste Water Treatment Facility. The lift station high water alarm was on and

Classification: Minor

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

30 TAC Chapter 317 317.7(i)

Description: Failed to have a backflow prevention device tested annually to protect potable water at the plant, in violation of 30 Tex. Admin. Code §§ 317.4(a)(8) and 317.7(i), as documented during an inspection conducted on July 13, 2005.

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)

Rqmt Prov: TPDES Permit No. 14169-001 PERMIT

Description: Failed to install a measuring device that is capable of accurately measuring the actual flow range, in violation of 30 Tex. Admin. Code § 319.11(c) and TPDES Permit No. WQ0014169001, Monitoring and Reporting Requirements, No. 5, as documented during an investigation conducted on July 13, 2005. Specifically, the Respondent was measuring the flow by ultrasonic flow measurement device without the use of a secondary element.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: TPDES Permit No. 14169-001 PERMIT

Description: Failed to prevent the unauthorized discharge of wastewater from the collection system into or adjacent to waters in the state without authorization from the Commission, in violation of 30 Tex.

Admin. Code § 305.125(1), Tex. WATER Code § 26.121(a), and TPDES Permit No. WQ0014169001, Effluent Limitations and Monitoring Requirements No. 1, as documented during an inspection conducted on July 13, 2005. Specifically, raw sewage discharged from the City's manhole.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)

Rqmt Prov: TPDES Permit No. 14169-001 PERMIT

Description: Failed to orally notify the TCEQ of an unauthorized discharge on March 9, 2004 within 24 hours and submit written notification within five days, in violation of 30 Tex. Admin. Code § 305.125(9)(A) and TPDES Permit No. WQ0014169001, Monitoring and Reporting Requirements No. 7(a), as documented during an inspection conducted on July 13, 2005.

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: Failed to meet total suspended solids ("TSS") and total chlorine residual effluent limitations, in violation of 30 Tex. Admin. Code § 305.125(1), Texas Pollution Discharge Elimination System ("TPDES") Permit No. WQ0014169001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on June 8, 2005 and shown in the following table:

Classification: Moderate

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

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failed to submit the annual sludge report for the monitoring period ending July 2004, in violation of 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014169001, Sludge Provisions, as documented during a record review conducted on June 8, 2005.

Classification: Minor

Citation: 30 TAC Chapter 312, SubChapter G 312.141(a)

Rqmt Prov: Sludge Provisions; A; Pg. 12 PERMIT

Description: Failed to ensure that the transporter of sludge from the waste water treatment facility had authorization from the TCEQ to handle and dispose sewage sludge, in violation of 30 Tex. Admin. Code § 312.141(a) and TPDES Permit No. WQ0014169001, Sludge Provisions, Section I.A., as documented during an inspection conducted on July 13, 2005.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	09/27/2004	(289002)
2	11/01/2004	(367618)
3	11/01/2004	(367619)
4	11/01/2004	(367620)
5	11/01/2004	(367621)
6	11/04/2004	(337833)
7	01/24/2005	(390353)
8	01/24/2005	(390354)
9	01/24/2005	(390355)
10	04/14/2005	(427831)
11	04/14/2005	(427832)
12	04/22/2005	(376288)
13	06/24/2005	(395328)
14	07/06/2005	(427833)
15	07/06/2005	(427834)
16	07/06/2005	(427835)
17	08/09/2005	(447837)
18	08/30/2005	(399993)
19	10/03/2005	(493158)
20	10/03/2005	(493159)
21	10/21/2005	(493160)
22	12/19/2005	(493161)
23	01/06/2006	(493162)
24	02/08/2006	(493163)
25	03/13/2006	(493156)
26	03/22/2006	(493157)
27	06/02/2006	(506613)
28	06/05/2006	(506614)
29	06/21/2006	(506615)

30	08/10/2006	(528782)
31	09/12/2006	(528783)
32	09/28/2006	(528784)
33	11/01/2006	(632291)
34	01/29/2007	(632292)
35	01/29/2007	(632293)
36	02/02/2007	(632294)
37	02/02/2007	(632295)
38	08/23/2007	(632287)
39	08/23/2007	(632288)
40	08/23/2007	(632289)
41	08/23/2007	(632290)
42	02/06/2008	(677512)
43	02/06/2008	(677513)
44	02/06/2008	(677514)
45	02/06/2008	(696277)
46	04/07/2008	(677515)
47	06/12/2008	(699476)
48	06/16/2008	(696279)
49	06/16/2008	(696281)
50	06/16/2008	(696283)
51	06/16/2008	(717935)
52	06/20/2008	(696278)
53	06/20/2008	(696280)
54	06/20/2008	(696282)
55	06/20/2008	(696284)
56	08/22/2008	(687886)
57	10/29/2008	(704952)
58	11/10/2008	(733239)
59	11/10/2008	(733240)
60	11/10/2008	(733241)
61	11/10/2008	(733242)
62	11/12/2008	(733243)
63	12/16/2008	(733244)
64	01/15/2009	(756382)
65	02/17/2009	(756381)
66	02/26/2009	(726849)
67	04/24/2009	(743158)
68	05/28/2009	(737895)
69	06/11/2009	(746486)
70	07/24/2009	(762078)

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

Date: 08/23/2004 (289002)

CN600639728

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. 14169-001

Description: Failed to ensure that the facility and all its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TAC §305.125(1) and TPDES Permit No. WQ0014169001, Operational Requirements, No. 1, as documented during an investigation conducted on July 13, 2005. Specifically, during the investigation it was noted that inflow and infiltration is adversely affected the Waste Water Treatment Facility. The lift station high water alarm was on

Self Report? NO

Classification: Minor

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

Description: Failed to have a backflow prevention device tested annually to protect potable water at the plant, in violation of 30 Tex. Admin. Code §§ 317.4(a)(8) and 317.7(i), as documented during an inspection conducted on July 13, 2005.

Self Report? NO

Classification: Minor

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

Description: 30 TAC Chapter 317 317.3(b)(3)  
TPDES Permit No. 14169-001 PERMIT  
Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d)(2) TPDES Permit No. 14169-001 PA		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) TPDES Permit No. 14169-001 PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(c) TPDES Permit No. 14169-001 PERMIT		
Description:	Failed to install a measuring device that is capable of accurately measuring the actual flow range, in violation of 30 Tex. Admin. Code § 319.11(c) and TPDES Permit No. WQ0014169001, Monitoring and Reporting Requirements, No. 5, as documented during an investigation conducted on July 13, 2005. Specifically, the Respondent was measuring the flow by ultrasonic flow measurement device without the use of a secondary element.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) TPDES Permit No. 14169-001 PERMIT		
Description:	Failure to provide records in a timely manner when records are required to be readily available for review during investigation.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(c) TPDES Permit No. 14169-001 PERMIT		
Description:	Failure by the permittee to comply with test procedures specified in 319.11 - 319.12.		
Date	08/31/2004 (367620)	CN600639728	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/20/2004 (285670)	CN600639728	
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No.14169-001 PERMIT		
Description:	Failed to prevent the unauthorized discharge of wastewater from the collection system into or adjacent to waters in the state without authorization from the Commission, in violation of 30 Tex. Admin. Code § 305.125(1), Tex. WATER Code § 26.121(a), and TPDES Permit No. WQ0014169001, Effluent Limitations and Monitoring Requirements No. 1, as documented during an inspection conducted on July 13, 2005. Specifically, raw sewage discharged from the City's manhole.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9)(A) TPDES Permit No. 14169-001 PERMIT		
Description:	Failed to orally notify the TCEQ of an unauthorized discharge on March 9, 2004 within 24 hours and submit written notification within five days, in violation of 30 Tex. Admin. Code § 305.125(9)(A) and TPDES Permit No. WQ0014169001, Monitoring and Reporting Requirements No. 7(a), as documented during an inspection conducted on July 13, 2005.		
Date	10/31/2004 (390353)	CN600639728	
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	11/30/2004 (390354)	CN600639728	

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	12/31/2004 (390355)	CN600639728	
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	02/28/2005 (427832)	CN600639728	
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	03/31/2005 (427833)	CN600639728	
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	04/30/2005 (427834)	CN600639728	
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	06/30/2005 (447837)	CN600639728	
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	12/31/2005 (493163)	CN600639728	
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	01/31/2006 (493156)	CN600639728	
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	04/30/2006 (506614)	CN600639728	
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 (528783)	CN600639728	
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 (632292)	CN600639728	
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 01/31/2007 (632287) CN600639728

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 02/28/2007 (696278) CN600639728

Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date 05/31/2007 (632288) CN600639728

Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2007 (696284) CN600639728

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 09/30/2007 (677512) CN600639728

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 10/31/2007 (677513) CN600639728

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 11/30/2007 (677514) CN600639728

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 12/31/2007 (677515) CN600639728

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 01/31/2008 (696277) CN600639728

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 02/29/2008 (696279) CN600639728

Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date 06/12/2008 (699476) CN600639728

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date 08/20/2008 (687886) CN600639728  
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 permittee to conduct the required annual testing of the backflow prevention device.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Record keeping Requirements PERMIT  
Description: Failure by the permittee to retain sludge records at the facility site and have readily available for review by a TCEQ representative.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Definitions and Standard Permit Cond. PERMIT  
Description: Failure by the permittee to ensure that the secondary flow measuring device is calibrated on an annual basis.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations PERMIT  
Other Requirements PERMIT  
Description: Failure by the permittee to discharge effluent in compliance with permitted effluent limitations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Defenitions and Standard Permit Cond. PERMIT  
Description: Failure by the permittee to correctly calculate BOD/TSS loadings.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.6  
30 TAC Chapter 319, SubChapter A 319.9(c)  
Monitoring and Reporting Requirements PERMIT  
Description: Failure by the permittee to retain monitoring and reporting records for a period of three years.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
Monitoring and Reporting Requirements PERMIT  
Description: Failure by the permittee to retain monitoring and reporting records for a period of three years.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.6(b)(1)(E)		
Description:	Failure by the permittee to provide a functional ventilation fan for the chlorination room.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.6(b)(1)(D)		
Description:	Failure by the permittee to provide a self-contained breathing apparatus (SCBA) at a safe distance from the chlorine facilities to insure accessibility.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11 30 TAC Chapter 319, SubChapter A 319.12		
Description:	Failure by the permittee to comply with test procedures specified in 319.11 - 312.12.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	30 TAC Chapter 317 317.4(d) Operational Requirements PERMIT Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)		
Description:	Operational Requirements PERMIT Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(e)(5)		
Description:	Operational Requirements PERMIT Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(b)(1)		
Description:	Operational Requirements PERMIT Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(a)		
Description:	Operational Requirements PERMIT Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Operational Requirements PERMIT Failure by the permittee to retain operation logs at the facility or have them readily available for review by a TCEQ representative, for a period of three years.		
Date	10/30/2008	(704952)	
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 permittee to conduct the required annual testing of the backflow prevention device.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Record keeping Requirements PERMIT Failure by the permittee to retain sludge records at the facility site and have readily available for review by a TCEQ representative.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Definitions and Standard Permit Cond. PERMIT Failure by the permittee to ensure that the secondary flow measuring device is calibrated on an annual basis.		

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations PERMIT Other Requirements PERMIT		
Description:	Failure by the permittee to discharge effluent in compliance with permitted effluent limitations.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Defenitions and Standard Permit Cond. PERMIT		
Description:	Failure by the permittee to correctly calculate BOD/TSS loadings.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.6 30 TAC Chapter 319, SubChapter A 319.9(c) Monitoring and Reporting Requirements PERMIT		
Description:	Failure by the permittee to retain monitoring and reporting records for a period of three years.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a) Monitoring and Reporting Requirements PERMIT		
Description:	Failure by the permittee to retain monitoring and reporting records for a period of three years.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.6(b)(1)(E)		
Description:	Failure by the permittee to provide a functional ventilation fan for the chlorination room.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.6(b)(1)(D)		
Description:	Failure by the permittee to provide a self-contained breathing apparatus (SCBA) at a safe distance from the chlorine facilities to insure accessibility.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11 30 TAC Chapter 319, SubChapter A 319.12		
Description:	Failure by the permittee to comply with test procedures specified in 319.11 - 312.12.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d) Operational Requirements PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3) Operational Requirements PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(e)(5) Operational Requirements PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(b)(1) Operational Requirements PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(a) Operational Requirements PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Operational Requirements PERMIT  
 Description: Failure by the permittee to retain operation logs at the facility or have them readily available for review by a TCEQ representative, for a period of three years.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)  
 Sludge Provisions PERMIT  
 Description: Failure by the permittee to submit the annual sludge report to TCEQ by September 1 of each year, as required by permit.

Date 11/30/2008 (733244) CN600639728  
 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 04/23/2009 (743158) CN600639728  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Operational Requirements; No. 4, Pg. 10 PERMIT  
 Description: Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

Date 06/12/2009 (746486)  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Defenitions and Standard Permit Cond. PERMIT  
 Description: Failure by the permittee to correctly calculate BOD/TSS loadings.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.6(b)(1)(E)  
 Description: Failure by the permittee to provide a functional ventilation fan for the chlorination room.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11  
 30 TAC Chapter 319, SubChapter A 319.12  
 Description: Failure by the permittee to comply with test procedures specified in 319.11 - 312.12.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.6(b)(3)  
 Operational Requirements PERMIT  
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.3(b)(1)  
 Operational Requirements PERMIT  
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Operational Requirements PERMIT  
 Description: Failure by the permittee to retain operation logs at the facility or have them readily available for review by a TCEQ representative, for a period of three years.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)  
 Sludge Provisions PERMIT  
 Description: Failure by the permittee to submit the annual sludge report to TCEQ by September 1 of

each year, as required by permit.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitations and Monitoring Req. PERMIT

Description: Failure by the permittee to comply with the permitted effluent limitation for chlorine residual.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Effluent Limitation and Monitoring Req. PERMIT

Description: Failure by the permittee to discharge effluent in compliance with the permitted effluent limitations.

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 CRANFILLS GAP  
RN101916492**

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

## **AGREED ORDER DOCKET NO. 2009-1288-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 Respondent of Cranfills Gap ("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 domestic wastewater treatment system located approximately 900 feet southeast of the intersection of State Highway 22 and Farm-to-Market Road 219 (3<sup>rd</sup> Street) in Bosque County, Texas (the "Facility").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of 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 July 27, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Six Hundred Twenty-Five Dollars (\$4,625) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Hundred Forty-Five Dollars (\$345) of the administrative penalty and Nine Hundred Twenty-Five Dollars (\$925) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Three Hundred Fifty-Five Dollars (\$3,355) of the administrative penalty shall be payable in 11 monthly payments of Three Hundred Five Dollars (\$305) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order

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 came into compliance with the Commission's Sewer Plant Emergency Power Initiative on September 7, 2009 by purchasing and installing a stand-by emergency power generator.
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 failed to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastewater in the event of an electrical power failure by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014169001, Operational Requirements No. 4, and documented during an investigation conducted on July 10, 2009.

## 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 Cranfills Gap, Docket No. 2009-1288-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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.

6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. 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 Cranfills Gap  
DOCKET NO. 2009-1288-MWD-E  
Page 5

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission

*John Sadler*  
For the Executive Director

4 14 2011  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to 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.

*Joyce Benzendorf*  
Signature

3-4-2010  
Date

**JOYCE BENZENDORF**  
Name (Printed or typed)  
Authorized Representative of  
City of Cranfills Gap

*MA YON*  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Section at the address in Section IV, Paragraph 1 of this Agreed Order.