

Executive Summary – Enforcement Matter – Case No. 39633

City of Arcola

RN102096815

Docket No. 2010-0710-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Located approximately 1,000 feet east of Farm-to-Market Road 521 and 3,200 feet south of the intersection of Farm-to-Market Road 521 and Texas Highway 6, Fort Bend County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 22, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$29,040

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,040

Total Due to General Revenue: \$20,000

Payment Plan: The remaining amount of \$20,000 will be payable in 10 monthly payments of \$2,000 each.

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 39633
City of Arcola
RN102096815
Docket No. 2010-0710-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 5, 2010
Date(s) of NOE(s): April 15, 2010

Violation Information

Failed to comply with permitted effluent limits for carbonaceous biochemical oxygen demand, daily flow, ammonia nitrogen, dissolved oxygen, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013367001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

Within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013367001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-9, (254) 761-3034; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Mary Etta Anderson, Mayor, City of Arcola, 13222 Highway 6, Arcola, Texas 77583
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	19-Apr-2010	Screening	26-Apr-2010	EPA Due	
	PCW	27-Apr-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Arcola		
Reg. Ent. Ref. No.	RN102096815		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39633	No. of Violations	2
Docket No.	2010-0710-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		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	\$12,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	142.0% Enhancement	Subtotals 2, 3, & 7	\$17,040
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Notes: The penalty is enhanced for 23 months of self-reported effluent violations, one NOV for violations that are same or similar, one NOV for violations that are not same or similar, and one Agreed Order with a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,253
 Approx. Cost of Compliance: \$15,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$29,040
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$29,040
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$29,040
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$29,040
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Screening Date 26-Apr-2010

Docket No. 2010-0710-MWD-E

PCW

Respondent City of Arcola

Policy Revision 2 (September 2002)

Case ID No. 39633

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102096815

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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 (number of NOVs meeting criteria)	24	120%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 142%

>> 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

The penalty is enhanced for 23 months of self-reported effluent violations, one NOV for violations that are same or similar, one NOV for violations that are not same or similar, and one Agreed Order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 142%

Screening Date 26-Apr-2010

Docket No. 2010-0710-MWD-E

PCW

Respondent City of Arcola

Policy Revision 2 (September 2002)

Case ID No. 39633

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102096815

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013367001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on March 5, 2010. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate 5-day carbonaceous biochemical oxygen demand ("CBOD₅"), ammonia nitrogen ("NH₃-N"), and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and dissolved oxygen were also considered. As a result of these discharges, human health or the environment have been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2

62 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Two monthly events are recommended for the months of October and December 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,253

Violation Final Penalty Total \$24,200

This violation Final Assessed Penalty (adjusted for limits) \$24,200

Economic Benefit Worksheet

Respondent City of Arcola
Case ID No. 39633
Reg. Ent. Reference No. RN102096815
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$15,000	30-Apr-2009	31-Dec-2010	1.67	\$1,253	n/a	\$1,253

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. Final date is the anticipated 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

\$15,000

TOTAL

\$1,253

Screening Date 26-Apr-2010

Docket No. 2010-0710-MWD-E

PCW

Respondent City of Arcola

Policy Revision 2 (September 2002)

Case ID No. 39633

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102096815

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0013367001, Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on March 5, 2010. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate CBOD₅, NH₃-N, and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of these discharges, human health or the environment have been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 91 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended for the quarters containing the months of April, May, and November 2009.

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,840

This violation Final Assessed Penalty (adjusted for limits) \$4,840

Economic Benefit Worksheet

Respondent City of Arcola
Case ID No. 39633
Reg. Ent. Reference No. RN102096815
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
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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
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EFFLUENT VIOLATION TABLE

City of Arcola
 TPDES Permit No. WQ0013367001
 Docket No. 2010-0710-MWD-E

Permitted Effluent Limits	Monitoring Period End Date				
	Apr-09	May-09	Oct-09	Nov-09	Dec-09
CBOD ₅ Daily Average Conc. 10 mg/L	c	c	12.66	c	21.3
CBOD ₅ Single Grab 35 mg/L	c	c	c	c	87.0
CBOD ₅ Daily Average Loading 10 lbs/day	c	c	24.72	c	76.24
Daily Average Flow 0.125 MGD	0.241	0.131	0.283	0.132	0.422
NH ₃ -N Daily Average Conc. 3 mg/L	3.43	c	3.28	c	c
NH ₃ -N Daily Average Loading 3.1 lbs/day	12.42	c	6.83	c	5.63
DO Minimum Conc. 4.0 mg/L	c	c	c	c	3.4
TSS Daily Average Conc. 15 mg/L	c	c	32.2	16.33	30.2
TSS Single Grab 60 mg/L	c	c	72.0	c	98.0
TSS Daily Average Loading 16 lbs/day	23.78	c	85.62	c	106.96

c = compliant

CBOD₅ = 5-day carbonaceous biochemical
 oxygen demand

conc. = concentration

DO = dissolved oxygen

lbs/day = pounds per day

mg/L = milligrams per Liter

MGD = million gallons per day

NH₃-N = ammonia nitrogen

TSS = total suspended solids

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601130404	City of Arcola	Classification: AVERAGE	Rating: 2.58
Regulated Entity:	RN102096815	CITY OF ARCOLA	Classification: AVERAGE	Site Rating: 2.16
ID Number(s):	WASTEWATER		PERMIT	WQ0013367001
	WASTEWATER		PERMIT	TPDES0102385
	WASTEWATER		PERMIT	TX0102385
	WASTEWATER LICENSING		LICENSE	WQ0013367001

Location: Located approximately 1,000 feet east of Farm-to-Market Road 521 and 3,200 feet south of the intersection of Farm-to-Market Road 521 and Texas Highway 6 in Fort Bend County, Texas.

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: April 26, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 26, 2005 to April 26, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: (254) 761-3034

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2009 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: 03/23/2006	ADMINORDER 2005-0870-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	

- 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	05/05/2005	(378932)
2	05/19/2005	(430578)
3	06/20/2005	(430579)
4	07/22/2005	(446436)
5	08/16/2005	(446437)
6	09/19/2005	(446438)
7	10/18/2005	(479029)
8	11/29/2005	(479030)
9	01/04/2006	(479031)
10	02/03/2006	(479032)
11	02/22/2006	(479027)
12	03/24/2006	(479028)
13	04/24/2006	(504946)
14	04/28/2006	(461526)
15	05/22/2006	(504947)
16	06/20/2006	(504948)
17	07/13/2006	(504949)
18	08/23/2006	(527247)
19	09/13/2006	(527248)
20	10/17/2006	(628192)
21	11/15/2006	(628194)
22	12/13/2006	(628196)
23	01/12/2007	(628198)
24	02/13/2007	(628184)

25 03/19/2007 (628185)
 26 04/15/2007 (628186)
 27 06/12/2007 (628187)
 28 06/12/2007 (628188)
 29 07/14/2007 (628189)
 30 08/15/2007 (628190)
 31 09/13/2007 (628191)
 32 10/17/2007 (628193)
 33 11/13/2007 (628195)
 34 12/18/2007 (628197)
 35 01/18/2008 (628199)
 36 02/20/2008 (676347)
 37 03/20/2008 (676348)
 38 04/23/2008 (676349)
 39 05/14/2008 (694745)
 40 06/16/2008 (694746)
 41 07/15/2008 (694747)
 42 07/22/2008 (686794)
 43 08/28/2008 (716231)
 44 09/19/2008 (716232)
 45 10/17/2008 (716233)
 46 11/18/2008 (731752)
 47 12/22/2008 (731753)
 48 01/16/2009 (731754)
 49 02/20/2009 (755143)
 50 03/21/2009 (755144)
 51 04/20/2009 (755145)
 52 05/14/2009 (709728)
 53 05/26/2009 (772271)
 54 06/15/2009 (772272)
 55 03/12/2010 (788357)
 56 03/22/2010 (796180)
 57 04/16/2010 (794758)

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

Date: **07/31/2005** (446437) **CN601130404**
 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: **04/28/2006** (461526) **CN601130404**
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit Number 13367-001 OP
 Description: Failure to comply with the daily average flow permit limit of 0.125 million gallons per day (MGD).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. 13367-001 OP
 Description: Failure to maintain the collection system.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 TPDES Permit No. 13367-001 OP
 Description: Failure to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities after exceeding 75% of the permit daily average flow for three consecutive months.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter O 305.535(c)(1)
 TPDES Permit No. 13367-001 OP
 Description: Failure to prevent sanitary sewer overflows (SSOs).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
Description: Failure to initiate engineering and financial planning as required by the permit.

Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121(a)(1)
Description: Failure to prevent the unauthorized discharge of wastewater.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with permitted daily average flow limit of .125 MGD.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.6(b)(1)(A)
Description: Failure to provide adequate chlorination capacity.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with permitted effluent limits.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the minimum permitted effluent limit for chlorine residual.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to analyze carbonaceous biochemical oxygen demand (CBOD) samples within hold times.

Date **07/31/2006** (527247) CN601130404
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** (628194) CN601130404
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 **12/31/2006** (628198) CN601130404
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** (628184) CN601130404
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** (628185) CN601130404
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date **03/31/2007** (628186) CN601130404
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 **04/30/2007** (628187) CN601130404
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 **07/31/2007** (628190) CN601130404
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** (628191) CN601130404
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** (628193) CN601130404
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** (628197) CN601130404
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** (628199) CN601130404
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** (676347) CN601130404
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** (676348) CN601130404
Self Report? YES Classification: Moderate

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

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

Date **03/31/2008** (676349) CN601130404
Self Report? YES Classification: Moderate

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

Description: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Failure to meet the limit for one or more permit parameter

Date **09/30/2008** (716233) **CN601130404**
 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 **11/30/2008** (731753) **CN601130404**
 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 **04/30/2009** (772271) **CN601130404**
 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 **05/31/2009** (772272) **CN601130404**
 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** **CN601130404**
 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** **CN601130404**
 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** **CN601130404**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date **03/10/2010** (788357) **CN601130404**
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 M.&R.R., pg. 5, No. 5 PERMIT
 Description: Failure to ensure flow measurement accuracy.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.3(e)(4)(D)
 Description: Failure to maintain the off-site lift stations.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to maintain the off-site lift station.

- 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 ARCOLA
RN102096815**

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

**AGREED ORDER
DOCKET NO. 2010-0710-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the City of Arcola (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located approximately 1,000 feet east of Farm-to-Market Road 521 and 3,200 feet south of the intersection of Farm-to-Market Road 521 and Texas Highway 6 in Fort Bend County, Texas (the “Facility”).

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on March 5, 2010, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports (“DMRs”):

EFFLUENT VIOLATION TABLE					
Permitted Effluent Limits	Monitoring Period End Date				
	Apr-09	May-09	Oct-09	Nov-09	Dec-09
CBOD₅ Daily Average 10 mg/L	c	c	12.66	c	21.3
CBOD₅ Single Grab 35 mg/L	c	c	c	c	87.0
CBOD₅ Daily Average 10 lbs/day	c	c	24.72	c	76.24
Daily Average Flow 0.125 MGD	0.241	0.131	0.283	0.132	0.422
NH₃-N Daily Average Conc. 3 mg/L	3.43	c	3.28	c	c
NH₃-N Daily Average Loading 3.1 lbs/day	12.42	c	6.83	c	5.63
DO Minimum Conc. 4.0 mg/L	c	c	c	c	3.4
TSS Daily Average Conc. 15 mg/L	c	c	32.2	16.33	30.2
TSS Single Grab 60 mg/L	c	c	72.0	c	98.0
TSS Daily Average Loading 16 lbs/day	23.78	c	85.62	c	106.96

c = compliant

CBOD₅ = 5-day carbonaceous biochemical oxygen demand

conc. = concentration

DO = dissolved oxygen

lbs/day = pounds per day

mg/L = milligrams per Liter

MGD = million gallons per day

NH₃-N = ammonia nitrogen

TSS = total suspended solids

4. The Respondent received notice of the violations on April 20, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013367001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Twenty-Nine Thousand Forty Dollars (\$29,040) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Nine Thousand Forty Dollars (\$9,040) of the administrative penalty. The remaining amount of Twenty Thousand Dollars (\$20,000) of the administrative penalty shall be payable in 10 monthly payments of Two Thousand Dollars (\$2,000) 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.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Nine Thousand Forty Dollars (\$29,040) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Arcola, Docket No. 2010-0710-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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013367001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to

the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdien
For the Executive Director

5/5/2011
Date

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

I understand that by entering into this Agreed Order, the City of Arcola waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Mary Etta Anderson
Signature

March 16, 2011
Date

Mary Etta Anderson
Name (Printed or typed)
Authorized Representative of
City of Arcola

MAYOR
Title

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