

**Executive Summary – Enforcement Matter – Case No. 41054**  
**Gray Utility Service L.L.C.**  
**RN101525806**  
**Docket No. 2011-0160-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Grays MHP, 5601 Farm-to-Market Road 565 South, Baytown, Chambers County

**Type of Operation:**

Domestic wastewater system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 27, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,781

**Amount Deferred for Expedited Settlement:** \$1,956

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$7,825

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**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. 41054  
Gray Utility Service L.L.C.  
RN101525806  
Docket No. 2011-0160-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** December 14, 2010  
**Date(s) of NOE(s):** January 13, 2011

***Violation Information***

1. Failed to comply with permitted effluent limits for residual chlorine, ammonia nitrogen, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0011449001 Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0011449001 Sludge Provisions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that the Respondent sold the facility to Aqua Utilities, Inc. on December 31, 2010.

**Technical Requirements:**

N/A

***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:** Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Walter M. Gray, Jr., General Manager, Gray Utility Service L.L.C., P. O. Box 2099, Mont Belvieu, Texas 77580-2099  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	17-Jan-2011	<b>Screening</b>	21-Jan-2011	<b>EPA Due</b>	
	<b>PCW</b>	24-Jan-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Gray Utility Service L.L.C.
<b>Reg. Ent. Ref. No.</b>	RN101525806
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41054	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-0160-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harvey Wilson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$5,000</b>
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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.

<b>Compliance History</b>	<b>75.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$3,750</b>
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<b>Notes</b>	Enhancement for 13 months of self-reported effluent violations and two NOV's with the same/similar violations.
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<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$1,531	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,400	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$8,750</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>11.8%</b>	<b>Adjustment</b>	<b>\$1,031</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	A 5.7% (\$500) reduction in the penalty is recommended so the monthly self-reported effluent violations do not overly impact the penalty amount and a 17.5% (\$1,531) enhancement in the penalty is recommended to capture the avoided costs of compliance associated with violations Nos. 1 and 2. Therefore a net enhancement of 11.8% (\$1,031) in the penalty is recommended.
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<b>Final Penalty Amount</b>	<b>\$9,781</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$9,781</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$1,956</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$7,825</b>
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**Screening Date** 21-Jan-2011

**Docket No.** 2011-0160-MWD-E

**PCW**

**Respondent** Gray Utility Service L.L.C.

Policy Revision 2 (September 2002)

**Case ID No.** 41054

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101525806

**Media [Statute]** Water Quality

**Enf. Coordinator** Harvey Wilson

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	15	75%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 75%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for 13 months of self-reported effluent violations and two NOVs with the same/similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 75%

Screening Date 21-Jan-2011

Docket No. 2011-0160-MWD-E

PCW

Respondent Gray Utility Service L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41054

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101525806

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011449001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on December 14, 2010, as depicted in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and chlorine residual were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

211 Number of violation days

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

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,425

Violation Final Penalty Total \$7,825

This violation Final Assessed Penalty (adjusted for limits) \$7,825

# Economic Benefit Worksheet

**Respondent** Gray Utility Service L.L.C.  
**Case ID No.** 41054  
**Reg. Ent. Reference No.** RN101525806  
**Media Violation No.** Water Quality  
 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### 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)	\$1,300	31-Dec-2009	31-Dec-2010	1.92	\$125	\$1,300	\$1,425

Notes for AVOIDED costs

The estimated cost of replacing the blower fan motor. Date Required is the date the violations were first documented. Final Date is the date the Facility was sold.

Approx. Cost of Compliance

\$1,300

**TOTAL**

\$1,425

Screening Date 21-Jan-2011

Docket No. 2011-0160-MWD-E

PCW

Respondent Gray Utility Service L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41054

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101525806

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. WQ0011449001 Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, as documented during a record review conducted December 14, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended from August 1, 2010.

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$1,956

This violation Final Assessed Penalty (adjusted for limits) \$1,956

# Economic Benefit Worksheet

**Respondent** Gray Utility Service L.L.C.  
**Case ID No.** 41054  
**Req. Ent. Reference No.** RN101525806  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	30-Sep-2010	31-Dec-2010	1.17	\$6	\$100	\$106

Notes for AVOIDED costs

The estimated cost of submitting the sludge report. Date Required is the date the sludge report was due.  
Final Date is the date the Facility was sold.

Approx. Cost of Compliance \$100

**TOTAL** \$106

Gray Utility Service L.L.C.  
Docket No. 2011-0160-MWD-E  
RN101525806; WQ0011449001  
Violation Table

Reporting Period	Chlorine Residual, Minimum Concentration 1.0 mg/L	Flow, Daily Average Maximum 0.099 MGD	Ammonia Nitrogen, Daily Average Concentration 3 mg/L	Ammonia Nitrogen, Daily Average Loading 2.5 lb/d
December 2009	0.77	0.114134	C	C
February 2010	C	0.109543	C	C
April 2010	C	0.114661	C	C
May 2010	C	0.108120	C	C
June 2010	C	C	3.950	3.37394
August 2010	C	C	6.025	2.83427
September 2010	C	C	4.660	3.30580

mg/L = milligrams per liter    MGD = million gallons per day    lb/d = pounds per day    C = compliant



# Compliance History

Customer/Respondent/Owner-Operator:	CN602932196	Gray Utility Service, L.L.C.	Classification: AVERAGE	Rating: 2.24
Regulated Entity:	RN101525806	GRAYS MHP	Classification: AVERAGE	Site Rating: 0.95
ID Number(s):	WASTEWATER		PERMIT	WQ0011449001
	WASTEWATER		EPA ID	TX0066656
	WASTEWATER LICENSING		LICENSE	WQ0011449001
Location:	5601 Farm-to-Market Road 565 South, Baytown, Chambers County, Texas			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	January 21, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 31, 2006 to December 31, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Harvey Wilson	Phone:	239 - 1321	

## Site Compliance History Components

- |  |    |     |
|--|----|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period?       |    | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? |    | No  |
| 3. If Yes, who is the current owner/operator?  |    | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)?  |    | N/A |
| 5. When did the change(s) in owner or operator occur?  |    | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator:  | NO |     |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- 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  | 02/13/2006 | (474469) |
| 2  | 03/17/2006 | (474470) |
| 3  | 01/23/2006 | (474473) |
| 4  | 04/14/2006 | (502300) |
| 5  | 05/16/2006 | (502301) |
| 6  | 06/13/2006 | (502302) |
| 7  | 01/04/2007 | (518305) |
| 8  | 07/12/2006 | (524622) |
| 9  | 08/14/2006 | (524623) |
| 10 | 09/20/2006 | (524624) |
| 11 | 11/20/2006 | (549579) |
| 12 | 11/20/2006 | (549580) |

13	12/18/2006	(549581)
14	03/21/2007	(554106)
15	05/09/2007	(559642)
16	02/15/2007	(583461)
17	03/19/2007	(583462)
18	06/06/2007	(583463)
19	06/06/2007	(583464)
20	06/20/2007	(583465)
21	01/18/2007	(583466)
22	07/18/2007	(603942)
23	09/04/2007	(603943)
24	09/14/2007	(603944)
25	10/17/2007	(622758)
26	11/16/2007	(622759)
27	12/12/2007	(622760)
28	04/18/2008	(646540)
29	02/13/2008	(674267)
30	03/17/2008	(674268)
31	01/17/2008	(674269)
32	04/24/2008	(692603)
33	05/19/2008	(692604)
34	06/18/2008	(713734)
35	07/21/2008	(713735)
36	09/03/2008	(713736)
37	10/22/2008	(713737)
38	11/21/2008	(729739)
39	02/20/2009	(752976)
40	01/02/2009	(752977)
41	01/26/2009	(752978)
42	03/26/2009	(770564)
43	04/20/2009	(770565)
44	05/20/2009	(770566)
45	12/18/2009	(782003)
46	02/02/2010	(788921)
47	02/19/2010	(792297)
48	03/01/2010	(811417)
49	02/16/2010	(811418)
50	07/15/2009	(811419)
51	09/03/2009	(811420)
52	09/26/2008	(811421)
53	09/24/2009	(811422)
54	10/26/2009	(811423)
55	11/30/2009	(811424)
56	12/28/2009	(811425)
57	02/01/2010	(811426)

58	03/24/2010	(833204)
59	04/29/2010	(833205)
60	05/24/2010	(833206)
61	06/30/2010	(846998)
62	09/17/2010	(874721)
63	10/20/2010	(882309)
64	10/25/2010	(882310)
65	01/14/2011	(884704)
66	09/17/2010	(888773)

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

Date:	02/28/2006	(474470)	CN602932196
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2006	(502300)	CN602932196
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:	01/04/2007	(518305)	CN602932196
Self Report?	NO		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Sludge Provisions, Section I (C), p. 16 PERMIT		
Description:	Failure to conduct the sludge analyses for metal and fecal coliform bacteria annually.		
Self Report?	NO		Classification Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)		
Description:	Failure to properly maintain the chlorine contact basin.		
Self Report?	NO		Classification Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Interim I ELMR, No. 2, p. 2 PERMIT		
Description:	Failure to maintain compliance with the permitted effluent limits for total chlorine residual.		
Self Report?	NO		Classification Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to properly complete the Discharge Monitoring Reports (DMRs) and annual FY 06 sludge report.		
Self Report?	NO		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Other Requirements, No. 8, p. 23 PERMIT		
Description:	Failure to route the effluent through at least two ponds.		
Date:	01/31/2008	(674267)	CN602932196
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	(692603)	CN602932196
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:	04/30/2008	(692604)	CN602932196

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 (752977)	CN602932196	
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:	12/18/2009 (782003)	CN602932196	
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)		
Description:	Failure to properly maintain the chlorine contact basin.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Interim I ELMR, No. 2, p. 2 PERMIT		
Description:	Failure to maintain compliance with the permitted effluent limits for total chlorine residual.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to maintain the chlorine room.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations PERMIT		
Description:	Failure to maintain compliance with the permitted effluent limits for dissolved oxygen.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting Requirements PERMIT		
Description:	Failure to accurately report the flow.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 317 317.3(c) 30 TAC Chapter 317 317.3(c)(1) 30 TAC Chapter 317 317.3(c)(2) 30 TAC Chapter 317 317.3(c)(3) 30 TAC Chapter 317 317.3(c)(4) 30 TAC Chapter 317 317.3(c)(5) 30 TAC Chapter 317 317.3(c)(6) 30 TAC Chapter 317 317.3(c)(7)		
Description:	Failure to provide the required number of operational pumps.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to provide adequate backflow prevention assemblies.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 317 317.3(e)(5)		
Description:	Failure to provide appropriate functional high level alarms.		
Date:	12/31/2009 (811426)	CN602932196	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2010 (833204)	CN602932196	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2010 (833206)	CN602932196	

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:	05/31/2010 (846998)	CN602932196	
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:	06/30/2010 (874721)	CN602932196	
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:	08/31/2010 (882309)	CN602932196	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2010 (882310)	CN602932196	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
GRAY UTILITY SERVICE L.L.C.  
RN101525806**

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

## **AGREED ORDER DOCKET NO. 2011-0160-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 Gray Utility Service L.L.C. ("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 owned and operated a domestic wastewater system located at 5601 Farm-to-Market Road 565 South in Baytown, Chambers County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 18, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Seven Hundred Eighty-One Dollars (\$9,781) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Eight Hundred

Twenty-Five Dollars (\$7,825) of the administrative penalty and One Thousand Nine Hundred Fifty-Six Dollars (\$1,956) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent sold the facility to Aqua Utilities, Inc. on December 31, 2010.
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

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

1. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011449001 Effluent Limitations and Monitoring Requirements No. 1 as documented during a record review conducted on December 14, 2010, and shown in the following table:

Reporting Period	Chlorine Residual, Minimum Concentration, 1.0 mg/L	Flow, Daily Average Maximum, 0.099 MGD	Ammonia Nitrogen, Daily Average Concentration, 3 mg/L	Ammonia Nitrogen, Daily Average Loading, 2.5 lb/d
December 2009	0.77	0.114134	C	C
February 2010	C	0.109543	C	C
April 2010	C	0.114661	C	C
May 2010	C	0.108120	C	C
June 2010	C	C	3.950	3.37394
August 2010	C	C	6.025	2.83427
September 2010	C	C	4.660	3.30580

mg/L = milligrams per liter    MGD = million gallons per day    lb/d = pounds per day    C = compliant

- Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0011449001 Sludge Provisions, as documented during a record review conducted on December 14, 2010.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

- 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: Gray Utility Service L.L.C., Docket No. 2011-0160-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.
3. 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Szellin  
For the Executive Director

6/30/2011  
Date

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

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

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

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

Walter M. Gray Jr.  
Signature

4/27/2011  
Date

Walter M. Gray Jr.  
Name (Printed or typed)  
Authorized Representative of  
Gray Utility Service L.L.C.

General Mgr.  
Title

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