

Executive Summary – Enforcement Matter – Case No. 34670

City of Munday

RN103016192

Docket No. 2010-1233-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Located immediately south of Farm-to-Market Road 1587 approximately 2.3 miles northwest of the intersection of Farm-to-Market Road 1587 and Farm-to-Market Road 266, Knox 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: June 17, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$25,338

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$25,338

Total Paid to General Revenue: \$0

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

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City of Munday
RN103016192
Docket No. 2010-1233-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: May 10, 2010
Date(s) of NOE(s): June 23, 2010

Violation Information

1. Failed to comply with the permitted effluent limitations for biochemical oxygen demand, dissolved oxygen, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010228002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, and TCEQ Agreed Order Docket No. 2007-1582-MWD-E, Ordering Provision No. 2].
2. Failed to timely submit the Discharge Monitoring Report ("DMR") for the monitoring period ending December 31, 2009 by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010228002, Monitoring and Reporting Requirements No. 1].
3. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009 by September 1, 2009 [30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010228002, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that by July 7, 2010, the Respondent:

- a. Submitted the DMR for the monitoring period ending December 31, 2009; and
- b. Submitted the annual sludge report for the monitoring period ending July 31, 2009.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of monthly DMRs and annual sludge reports;
- b. Within 45 days, submit written certification of compliance with Ordering Provision a.; and
- c. Within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010228002, including specific corrective actions that were

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implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

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: Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Dwayne Bearden, City Administrator, City of Munday, P.O. Box 39, Munday, Texas 76371
The Honorable Robert Bowen, Mayor, City of Munday, P.O. Box 39, Munday, Texas 76371
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Jun-2010	Screening	19-Jul-2010	EPA Due	
	PCW	5-Oct-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Munday
Reg. Ent. Ref. No.	RN103016192
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	3
Enf./Case ID No.	34670	Order Type	Findings
Docket No.	2010-1233-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Jennifer Graves
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$8,200**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **234.0%** Enhancement **Subtotals 2, 3, & 7** **\$19,188**

Notes: Enhancement for 35 months of self-reported effluent violations, three Notices of Violation ("NOVs") with same/similar violations, two NOVs with dissimilar violations, and two final enforcement orders containing a denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts **\$30,390**
 Approx. Cost of Compliance **\$226,915**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$27,388**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-7.5%** **Adjustment** **-\$2,050**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction so that the self-reported violations do not overly impact the penalty.

Final Penalty Amount **\$25,338**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$25,338**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$25,338**

Screening Date 19-Jul-2010

Docket No. 2010-1233-MWD-E

PCW

Respondent City of Munday

Policy Revision 2 (September 2002)

Case ID No. 34670

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103016192

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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>)	38	190%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of</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) 234%

>> **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 35 months of self-reported effluent violations, three Notices of Violation ("NOVs") with same/similar violations, two NOVs with dissimilar violations, and two final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 234%

Screening Date 19-Jul-2010
Respondent City of Munday
Case ID No. 34670

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PCW

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

Reg. Ent. Reference No. RN103016192
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010228002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, and TCEQ Agreed Order Docket No. 2007-1582-MWD-E, Ordering Provision No. 2

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on May 10, 2010, and shown in the attached violation 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 biochemical oxygen demand ("BOD") to determine whether the discharged amount of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") and dissolved oxygen ("DO") 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 8 689 Number of violation days

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

Violation Base Penalty \$8,000

Eight quarterly events are recommended from the effective date of the agreed order (August 29, 2008) to the date of screening (July 19, 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 \$8,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$30,365

Violation Final Penalty Total \$24,720

This violation Final Assessed Penalty (adjusted for limits) \$24,720

Economic Benefit Worksheet

Respondent City of Munday
Case ID No. 34670
Reg. Ent. Reference No. RN103016192
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	\$226,515	31-May-2009	30-Apr-2011	1.92	\$1,446	\$28,919	\$30,365
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

Actual cost to purchase and install six aerators to address BOD, DO, and TSS excursions at the Facility. Date required is the initial month of non-compliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$226,515

TOTAL

\$30,365

Screening Date 19-Jul-2010
Respondent City of Munday
Case ID No. 34670

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PCW

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

Reg. Ent. Reference No. RN103016192
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010228002, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending December 31, 2009 by the 20th day of the following month, as documented during a record review conducted on May 10, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

More than 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Estimated EB Amount \$18

Statutory Limit Test

Violation Final Penalty Total \$309

This violation Final Assessed Penalty (adjusted for limits) \$309

Economic Benefit Worksheet

Respondent City of Munday
Case ID No. 34670
Reg. Ent. Reference No. RN103016192
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$250	10-May-2010	30-Apr-2011	0.97	\$1	\$16	\$17
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)	\$50	20-Jan-2010	7-Jul-2010	0.46	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost to update operational guidance and conduct employee training to ensure that all monitoring records are properly maintained and all reporting requirements are met. Date required is the record review date. Final date is the expected date of compliance. The estimated cost to prepare and submit the DMR. Date required is the initial month of non-compliance. Final date is the date the DMR was submitted.

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

\$300

TOTAL

\$18

Screening Date 19-Jul-2010

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PCW

Respondent City of Munday

Policy Revision 2 (September 2002)

Case ID No. 34670

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103016192

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010228002, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009, as documented during a record review conducted on May 10, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				X	1%
Over 70% of the permit requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 292

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$309

This violation Final Assessed Penalty (adjusted for limits) \$309

Economic Benefit Worksheet

Respondent City of Munday
Case ID No. 34670
Reg. Ent. Reference No. RN103016192
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Sep-2009	7-Jul-2010	0.85	\$0	\$6	\$6
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

Estimated cost of preparing and submitting the annual sludge report. Date required is the date the report was due. The final date is the date the sludge report was submitted.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

EFFLUENT VIOLATION TABLE

City of Munday

TPDES Permit No. WQ0010228002

Docket No. 2010-1233-MWD-E

Month	BOD Daily Avg. Conc.	BOD Single Grab	DO Monthly Min.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	Limit = 30 mg/L	Limit = 100 mg/L	Limit = 4 mg/L	Limit = 90 mg/L	Limit = 150 lbs/day
5/31/2009	48.0	c	2	127.00	c
7/31/2009	63.8	110	3-5	119.60	c
8/31/2009	36.0	c	c	162.00	c
9/30/2009	50.5	c	c	101.00	c
10/31/2009	62.0	c	c	105.03	c
12/31/2009	42.5	c	c	c	c
1/31/2010	32.0	c	c	c	c
3/31/2010	42.0	c	c	111.25	c
6/30/2010	c	c	c	194.00	c
7/31/2010	c	c	c	156.75	247.6

BOD = biochemical oxygen demand

DO = dissolved oxygen

TSS = total suspended solids

Avg. = average

lbs/day = pounds per day

Conc. = concentration

Min. = minimum

mg/L = milligrams per Liter

c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator: CN600735526 City of Munday Classification: AVERAGE Rating: 7.63
Regulated Entity: RN103016192 CITY OF MUNDAY Classification: AVERAGE Site Rating: 12.25
ID Number(s): WASTEWATER PERMIT WQ0010228002
WASTEWATER EPA ID TX0119105
Location: IMMEDIATELY S OF FM 1587 APPROX 2.3 M NW OF THE INTX OF FM 1587 AND FM 266 IN KNOX CO, TX
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: September 30, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 30, 2005 to September 30, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jennifer Graves Phone: (956) 430-6023

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.

Effective Date: 07/22/2006

ADMINORDER 2004-0156-MWD-E

Classification: Moderate

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

Rqmt Prov: Operational Requirement 1, Page 9 OP

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly maintained and operated.

Classification: Moderate

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

Rqmt Prov: Monitoring & Reporting Req., No. 2 PERMIT

Description: Failure to meet the fifteen minute hold time established for measuring pH.

Classification: Moderate

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

30 TAC Chapter 319, SubChapter A 319.11

Rqmt Prov: Reporting Requirement 2, Page 4 OP

Description: Failure to accurately determine loading calculations reported on the discharge monitoring reports (DMRs).

Classification: Moderate

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

Rqmt Prov: Reporting Requirement 7c, Page 6 OP

Description: Failure to submit noncompliance notifications for effluent violations which deviate from the permitted effluent by more than 40%.

Classification: Moderate

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

Rqmt Prov: Other Requirement 7, Page 27 OP

Description: Failure to furnish certification to the TCEQ Regional Office by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria.

Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)(1)
Rqmt Prov: Monitoring & Rep. Requirements No. 3(c) PERMIT
Description: Failure to document the analysis time for dissolved oxygen measurements.

Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limitations & Mon. Req. No. 1 PERMIT
Description: Failed to comply with its permitted effluent limits.

Effective Date: 08/29/2008

ADMINORDER 2007-1582-MWD-E

Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Eff. Limitations & Mon. Req. No. 1 PERMIT
Description: Failure to comply with its permitted effluent limits.

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3(a)
Rqmt Prov: WQ0010228002 PERMIT
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly maintained and operated.

Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
Rqmt Prov: Mon. & Reporting Req. No. 2 PERMIT
Description: Failure to properly calibrate and maintain the dissolved oxygen meter.

Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.6
Rqmt Prov: Mon. & Reporting Requirements No. 2 PERMIT
Description: Failure to properly analyze effluent samples.

Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(c)
Rqmt Prov: Mon. & Rep. Requirements No. 2 PERMIT
Description: Failure to accurately determine loading calculations and correctly report self-reported effluent data on the 2006 DMRs.

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	10/03/2005	(492597)
2	10/28/2005	(492598)
3	11/22/2005	(492599)
4	01/26/2006	(492600)
5	02/22/2006	(492595)
6	03/15/2006	(492596)
7	04/28/2006	(506330)
8	06/12/2006	(506331)
9	06/15/2006	(506332)
10	07/28/2006	(528569)
11	12/28/2006	(551898)
12	01/18/2007	(589187)

13 03/20/2007 (589181)
14 04/17/2007 (589182)
15 05/03/2007 (589180)
16 05/03/2007 (589185)
17 05/03/2007 (589186)
18 05/18/2007 (589183)
19 06/21/2007 (589184)
20 07/20/2007 (605751)
21 08/24/2007 (605752)
22 09/24/2007 (605753)
23 10/22/2007 (631542)
24 11/16/2007 (608668)
25 11/16/2007 (631543)
26 12/18/2007 (631544)
27 01/14/2008 (677345)
28 01/20/2008 (756183)
29 02/19/2008 (677344)
30 04/14/2008 (696034)
31 04/25/2008 (653371)
32 05/30/2008 (696035)
33 07/07/2008 (717671)
34 07/18/2008 (717672)
35 09/15/2008 (717673)
36 09/15/2008 (717674)
37 11/04/2008 (733003)
38 11/25/2008 (706704)
39 01/20/2009 (733004)
40 01/20/2009 (733005)
41 01/20/2009 (733006)
42 03/09/2009 (756181)
43 03/09/2009 (756182)
44 03/12/2009 (737454)
45 03/27/2009 (704852)
46 04/10/2009 (773173)
47 06/30/2009 (749271)
48 07/15/2009 (762109)
49 08/31/2009 (767638)
50 12/21/2009 (819670)
51 01/25/2010 (819671)
52 02/22/2010 (819669)
53 02/24/2010 (792926)
54 03/15/2010 (836135)
55 04/23/2010 (836136)
56 05/26/2010 (836137)
57 06/25/2010 (802139)
58 07/19/2010 (847886)
59 07/19/2010 (862299)
60 07/23/2010 (828885)

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

Date: 09/30/2005 (492598)

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: 10/31/2005 (492599)
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 (492600)
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 (492595) CN600735526
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2006 (492596) CN600735526
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 (506330) CN600735526
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (506331)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (506332) CN600735526
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (528569) CN600735526
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 (589185) CN600735526
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 (589186) CN600735526
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2006 (551898)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2006 (589187) CN600735526
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (589180)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2007 (589181)
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: 03/31/2007 (589182)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (589183)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (589184)
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: 06/30/2007 (605751)
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 (605752)
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 (605753) CN600735526
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 (631542) CN600735526
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 (631543) CN600735526
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: 11/16/2007 (608668) CN600735526
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
WQ0010228002/Monitoring & Reporting Req PERMIT
Description: Failure to correctly report self-reported effluent data on DMRs for months of
March 2007, May 2007, July 2007, and August 2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010228002/Effluent Limitation Require PERMIT
Description: Failure to meet permit effluent limits, based upon region-documented effluent
sample.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010228002/Effluent Limitation Require PERMIT
Description: Failure to meet permit effluent limits for pH, based upon region-documented
effluent sample.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(b)
WQ0010228002/Monitoring and Reporting Re PERMIT
Description: Failure to calibrate the pH meter with proper buffer solution.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 210, SubChapter B 210.25(g)
WQ0010228002/R 10228-002 PERMIT
Description: Failure to properly mark reclaimed water distribution lines.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010228002/R 10228-002 PERMIT
Description: Failure to provide a pond liner certification in accordance with permit provisions.

Date: 12/31/2007 (677345) CN600735526
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 (677344) CN600735526
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: 11/25/2008 (706704) CN600735526
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.1
Monitoring and Reporting Requirements PERMIT

Description: Failure to submit a Discharge Monitoring Report (DMR).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 210, SubChapter B 210.24(d)(9)
Operational Requirements PERMIT

Description: Failure to provide adequate tailwater control.

Self Report? NO Classification: Minor
Citation: 210.23 PERMIT
30 TAC Chapter 210, SubChapter B 210.23(d)(1)

Description: Failure to properly maintain reclaimed water storage pond.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 210, SubChapter C 210.36(1)(C)
Operational Requirements PERMIT

Description: Failure to monitor flow of reclaimed water.

Date: 03/27/2009 (704852)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0010228002 PERMIT

Description: Failure to provide adequate safeguards in the event of an electrical power failure.

Date: 05/31/2009 (802139) CN600735526

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: 07/15/2009 (762109) CN600735526

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.4
30 TAC Chapter 319, SubChapter A 319.5(a)
30 TAC Chapter 319, SubChapter A 319.5(b)
WQ0010228-002 PERMIT

Description: Failure to collect and properly report sample results in accordance with permit provisions.

Date: 07/30/2009 (802139) CN600735526

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: 08/31/2009 (802139) CN600735526

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: 09/30/2009 (802139) CN600735526

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 (802139) CN600735526

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 (819671) CN600735526

Self Report? YES Classification: Moderate

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

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

Date: 01/31/2010 (819669)

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: 02/24/2010 (792926) CN600735526

Self Report? NO Classification: Moderate

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

Description: Failure to provide a totalizing flow meter at the WWTP.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Definitions Permit Conditions PERMIT

Description: Failure to provide written noncompliance notification to the TCEQ Regional Office within 5 working days of becoming aware of an effluent violation which deviates from the permitted limitation by more than 40%.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring and Reporting Requirements PERMIT

Description: Failure to properly report pH data on the monthly Discharge Monitoring Reports.

Self Report? NO Classification: Moderate

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

Description: Failure to submit the Annual Sludge Report for 2008-2009 by September 1, 2009.

Self Report? NO Classification: Minor

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

Description: Failure to maintain permit effluent limits for dissolved oxygen.

Date: 03/31/2010 (836136)

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 (862299) CN600735526

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: 07/31/2010 (802139) CN600735526

Self Report? YES Classification: Moderate

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

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MUNDAY
RN103016192**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1233-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 Munday (“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 they have 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 immediately south of Farm-to-Market Road 1587 approximately 2.3 miles northwest of the intersection of Farm-to-Market Road 1587 and Farm-to-Market Road 266 in Knox 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 May 10, 2010, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports (“DMR”):

EFFLUENT VIOLATION TABLE					
Month	BOD Daily Avg. Conc.	BOD Single Grab	DO Monthly Min.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	Limit = 30 mg/L	Limit = 100 mg/L	Limit = 4 mg/L	Limit = 90 mg/L	Limit = 150 lbs/day
5/31/2009	48.0	c	2	127.00	c
7/31/2009	63.8	110	3-5	119.60	c
8/31/2009	36.0	c	c	162.00	c
9/30/2009	50.5	c	c	101.00	c
10/31/2009	62.0	c	c	105.03	c
12/31/2009	42.5	c	c	c	c
1/31/2010	32.0	c	c	c	c
3/31/2010	42.0	c	c	111.25	c
6/30/2010	c	c	c	194.00	c
7/31/2010	c	c	c	156.75	247.6
BOD = biochemical oxygen demand			Conc. = concentration		
DO = dissolved oxygen			Min. = minimum		
TSS = total suspended solids			mg/L = milligrams per Liter		
Avg. = average			c = compliant		
lbs/day = pounds per day					

4. During a record review on May 10, 2010, TCEQ staff documented the failure to timely submit the DMR for the monitoring period ending December 31, 2009.
5. During a record review on May 10, 2010, TCEQ staff documented the failure to timely submit the annual sludge report for the monitoring period ending July 31, 2009 by September 1, 2009.
6. The Respondent received notice of the violations on June 28, 2010.
7. The Executive Director recognizes that by July 7, 2010, the Respondent:
 - a. Submitted the DMR for the monitoring period ending December 31, 2009; and

- b. Submitted the annual sludge report for the monitoring period ending July 31, 2009.

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 the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010228002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, and TCEQ Agreed Order Docket No. 2007-1582-MWD-E, Ordering Provision No. 2.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the DMR for the monitoring period ending December 31, 2009 by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010228002, Monitoring and Reporting Requirements No. 1.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009 by September 1, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010228002, Sludge Provisions.
5. 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.
6. An administrative penalty in the amount of Twenty-Five Thousand Three Hundred Thirty-Eight Dollars (\$25,338) 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 Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay all of the administrative penalty. Therefore, Twenty-Five Thousand Three Hundred Thirty-Eight Dollars (\$25,338) of the penalty 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.

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-Five Thousand Three Hundred Thirty-Eight Dollars (\$25,338) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. 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 Munday, Docket No. 2010-1233-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of monthly DMRs and annual sludge reports, in accordance with 30 TEX. ADMIN. CODE § 305.125(17);
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a, in accordance with Ordering Provision No. 2.c; and
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010228002, 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 include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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 fine 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
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

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 Szallier

For the Executive Director

7/7/2011

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Munday. I am authorized to agree to the attached Agreed Order on behalf of the City of Munday, 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 Munday 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.

Doayne Bearden

Signature

5/11/2011

Date

Doayne Bearden

Name (Printed or typed)
Authorized Representative of
City of Munday

City Administrator

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.