

Executive Summary – Enforcement Matter – Case No. 41033

City of Yorktown

RN103025805

Docket No. 2011-0127-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:

City of Yorktown WWTP, located at 500 South Riedel Street, approximately 0.7 mile southeast of the intersection of State Highway 72 and State Highway 119 at the end of Eckhardt Street, Yorktown, DeWitt 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: May 6, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,540

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$915

Total Due to General Revenue: \$9,625

Payment Plan: The remaining amount of \$9,625 will be payable in 11 monthly payments of \$875 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. 41033
City of Yorktown
RN103025805
Docket No. 2011-0127-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 29, 2010
Date(s) of NOE(s): December 21, 2010

Violation Information

Failed to comply with the permitted effluent limitations for ammonia nitrogen (“NH₃-N”), carbonaceous biochemical oxygen demand (“CBOD”), and *Escherichia coli* (“*E. coli*”) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010323001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. By October 1, 2010, wasted sludge at the Facility and rehabilitated the clarifier to address NH₃-N, CBOD, and *E. coli* exceedances; and
- b. By October 31, 2010, returned to compliance with the permitted effluent limits of TPDES Permit No. WQ0010323001.

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: Ms. Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Rene Hernandez, Mayor, City of Yorktown, P.O. Box 605, Yorktown, Texas 78164
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

ICEQ

DATES	Assigned	27-Dec-2010	Screening	10-Jan-2011	EPA Due	
	PCW	19-Jan-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Yorktown		
Reg. Ent. Ref. No.	RN103025805		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41033	No. of Violations	3
Docket No.	2011-0127-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		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** **\$8,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **49.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,165**

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

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

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$2,125**

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

Total EB Amounts **\$1,761**
Approx. Cost of Compliance **\$49,900**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$10,540**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$10,540**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$10,540**

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

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 **\$10,540**

Screening Date 10-Jan-2011

Docket No. 2011-0127-MWD-E

PCW

Respondent City of Yorktown

Policy Revision 2 (September 2002)

Case ID No. 41033

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103025805

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	5	25%
	Other written NOVs	2	4%
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) 49%

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

Total Adjustment Percentage (Subtotals 2, 3, & 7) 49%

Screening Date 10-Jan-2011

Docket No. 2011-0127-MWD-E

PCW

Respondent City of Yorktown

Policy Revision 2 (September 2002)

Case ID No. 41033

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103025805

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admn. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010323001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review conducted on November 29, 2010, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			50%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand ("CBOD") and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

One monthly event is recommended for the month of June 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes The Respondent achieved compliance by October 31, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,761

Violation Final Penalty Total \$6,200

This violation Final Assessed Penalty (adjusted for limits) \$6,200

Economic Benefit Worksheet

Respondent: City of Yorktown

Case ID No.: 41033

Req. Ent. Reference No.: RN103025805

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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$49,900	30-Apr-2010	31-Oct-2010	0.50	\$84	\$1,677	\$1,761
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Actual cost to waste sludge at the Facility and rehabilitate the clarifier to address ammonia nitrogen, CBOD, and *E. coli* exceedances. Date required is the Initial month of noncompliance. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$49,900

TOTAL

\$1,761

Screening Date 10-Jan-2011

Docket No. 2011-0127-MWD-E

PCW

Respondent City of Yorktown

Policy Revision 2 (September 2002)

Case ID No. 41033

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103025805

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010323001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limitations, as documented during a record review conducted on November 29, 2010, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 31 Number of violation days

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

Violation Base Penalty \$2,500

One monthly event is recommended for the month of July 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent achieved compliance by October 31, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,100

This violation Final Assessed Penalty (adjusted for limits) \$3,100

Economic Benefit Worksheet

Respondent: City of Yorktown
Case ID No.: 41033
Reg. Ent. Reference No.: RN103025805
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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date: 10-Jan-2011

Docket No.: 2011-0127-MWD-E

PCW

Respondent: City of Yorktown

Policy Revision 2 (September 2002)

Case ID No.: 41033

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN103025805

Media [Statute]: Water Quality

Enf. Coordinator: Jennifer Graves

Violation Number: 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010323001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limitations, as documented during a record review conducted on November 29, 2010, and shown in the attached violation 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	Major	Moderate	Minor

Percent: 0%

Matrix Notes

A simplified model was used to evaluate CBOD and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. E. coli was 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: 1

61 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty: \$1,000

One quarterly event is recommended for the quarter containing the months of April and May 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent achieved compliance by October 31, 2010.

Violation Subtotal: \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$0

Violation Final Penalty Total: \$1,240

This violation Final Assessed Penalty (adjusted for limits): \$1,240

Economic Benefit Worksheet

Respondent: City of Yorktown
Case ID No.: 41033
Reg. Ent. Reference No.: RN103025805
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
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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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$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

EFFLUENT VIOLATION TABLE

City of Yorktown

TPDES Permit No. WQ0010323001

Docket No. 2011-0127-MWD-E

Months	CBOD Daily Avg. Conc.	<i>E. coli</i> Bacteria Daily Avg. Conc.	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Avg. Loading	NH ₃ -N Max. Single Grab
	Limit = 10.0 mg/L	Limit = 126 CFU/100 mL	Limit = 3.0 mg/L	Limit = 6.5 lbs/day	Limit = 15.0 mg/L
April 2010	c	170	6.75	9.76	c
May 2010	c	c	4.01	7.40	c
June 2010	11.50	c	16.95	29.45	21.9
July 2010	10.88	c	14.21	17.84	19.2

CBOD = carbonaceous biochemical
oxygen demand

E. coli = *Escherichia coli*

NH₃-N = ammonia nitrogen

Avg. = average

Conc. = concentration

Max. = maximum

mg/L = milligrams per Liter

CFU/100 mL = colonies per 100 milliliters

lbs/day = pounds per day

c = compliant

Compliance History

Customer/Respondent/Owner-Operator: CN600306278 City of Yorktown Classification: AVERAGE Rating: 8.83
Regulated Entity: RN103025805 CITY OF YORKTOWN WWTP Classification: AVERAGE Site Rating: 8.83

ID Number(s): WASTEWATER PERMIT WQ0010323001
WASTEWATER EPA ID TX0054631
WASTEWATER LICENSING LICENSE WQ0010323001

Location: AT 500 S RIEDEL ST, APPROX 0.7 M SE OF THE
INTX OF STATE HWY 72 AND STATE HWY 119 AT THE
END OF ECKHARDT ST IN THE CITY OF
YORKTOWN, DEWITT CO, TX

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: January 07, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 07, 2006 to January 07, 2011

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: 06/26/2006

ADMINORDER 2003-0115-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: Not specified PERMIT

Description: Failure to comply with the permit limit for Total Ammonia Nitrogen at Outfall 001A.

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 No. 6 OP

Description: Failing to comply with the following permitted discharge limitaion for Outfall 001, as documented on October 7, 2002: The dissolved oxygen monthly minimum allowed under the Permit is 4.0 mg/L. Yorktown sefl reported 3.6 mg/L for the month of January 2002.

- 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 11/13/2007 (595359)
2 03/29/2008 (639881)

3 01/20/2009 (710182)
 4 08/14/2009 (765918)
 5 05/14/2010 (832748)
 6 08/12/2010 (844178)
 7 06/23/2010 (846855)
 8 07/23/2010 (861354)
 9 08/19/2010 (867571)
 10 09/03/2010 (869855)
 11 09/24/2010 (874558)
 12 12/21/2010 (879296)

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

Date: 11/13/2007 (595359) CN600306278
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES PERMIT NO. 10323-001 PERMIT
 Description: Failure to comply with the effluent limitations as specified in the permit.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. WQ0010323-001 PERMIT
 Description: Failure to comply with the effluent limitations as specified in the permit.

Date: 04/30/2010 (832748) CN600306278
 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 (846855) CN600306278
 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 (861354) CN600306278
 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 (867571) CN600306278
 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: 08/12/2010 (844178) CN600306278
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Operational Requirements; No. 1, Pg. 9 PERMIT
 Description: Failure to properly operate and maintain the facility and all of its systems or collection, treatment, and disposal.

Date: 09/03/2010 (869855) CN600306278
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

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 YORKTOWN
RN103025805**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0127-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 Yorktown ("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 at 500 South Riedel Street, approximately 0.7 mile southeast of the intersection of State Highway 72 and State Highway 119 at the end of Eckhardt Street in Yorktown, DeWitt 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 November 29, 2010, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports ("DMRs"):

EFFLUENT VIOLATION TABLE					
	CBOD Daily Avg. Conc.	<i>E. coli</i> Bacteria Daily Avg. Conc.	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Avg. Loading	NH ₃ -N Max. Single Grab
Months	Limit = 10.0 mg/L	Limit = 126 CFU/100 mL	Limit = 3.0 mg/L	Limit = 6.5 lbs/day	Limit = 15.0 mg/L
April 2010	c	170	6.75	9.76	c
May 2010	c	c	4.01	7.40	c
June 2010	11.50	c	16.95	29.45	21.9
July 2010	10.88	c	14.21	17.84	19.2
CBOD = carbonaceous biochemical oxygen demand <i>E. coli</i> = <i>Escherichia coli</i> NH ₃ -N = ammonia nitrogen Avg. = average Conc. = concentration			Max. = maximum mg/L = milligrams per Liter CFU/100 mL = colonies per 100 milliliters lbs/day = pounds per day c = compliant		

4. The Respondent received notice of the violations on December 27, 2010.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By October 1, 2010, wasted sludge at the Facility and rehabilitated the clarifier to address ammonia nitrogen, CBOD, and *E. coli* exceedances; and
 - b. By October 31, 2010, returned to compliance with the permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010323001.

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), TPDES Permit No. WQ0010323001, Effluent Limitations and Monitoring Requirements No. 1.
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 Ten Thousand Five Hundred Forty Dollars (\$10,540) 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 Hundred Fifteen Dollars (\$915) of the administrative penalty. The remaining amount of Nine Thousand Six Hundred Twenty-Five Dollars (\$9,625) of the administrative penalty shall be payable in 11 monthly payments of Eight Hundred Seventy-Five Dollars (\$875) 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 Ten Thousand Five Hundred Forty Dollars (\$10,540) 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 Yorktown, Docket No. 2011-0127-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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.
6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be

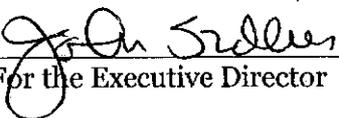
copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. 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



For the Executive Director

Date 5/12/2011

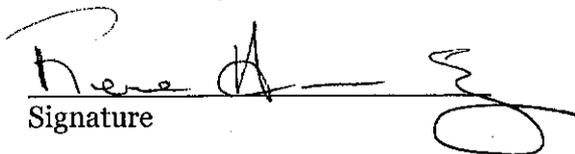
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Yorktown. I am authorized to agree to the attached Agreed Order on behalf of the City of Yorktown, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

I understand that by entering into this Agreed Order, the City of Yorktown 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.



Signature

Date April 1, 2011

Rene Hernandez
Name (Printed or typed)
Authorized Representative of
City of Yorktown

Title Mayor

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.