Executive Summary – Enforcement Matter – Case No. 40344
City of Holland
RN102075983
Docket No. 2010-1448-MWD-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
MWD
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Located approximately 0.5 mile east of the intersection of Travis Street and United States Highway 95, Bell County
Type of Operation:
Wastewater treatment 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 13, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $5,880
Amount Deferred for Expedited Settlement: $0
Amount Deferred for Financial Inability to Pay: $5,880
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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Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: August 11, 2010
Date(s) of NOE(s): August 25, 2010

Violation Information

Failed to comply with permitted effluent limits for 5-day biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010897001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010897001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC 149, (817) 588-5890; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Mae Smith, Mayor, City of Holland, P.O. Box 157, Holland, Texas 76534
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES						
	Assigned	27-Aug-2010				
	PCW	8-Sep-2010	**Screening**	6-Sep-2010	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Holland		
Reg. Ent. Ref. No.	RN102075983		
Facility/Site Region	9-Waco	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	40344	**No. of Violations**	1
Docket No.	2010-1448-MWD-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: **$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **202.0%** Enhancement — *Subtotals 2, 3, & 7*: **$4,040**

Notes: Enhancement for 35 months of self-reported effluent violations, one NOV with same/similar violations, and one NOV with dissimilar violations, and one agreed order with denial language.

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 $790
Approx. Cost of Compliance $10,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$6,040**

OTHER FACTORS AS JUSTICE MAY REQUIRE — **-2.6%** — *Adjustment*: **-$160**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in penalty so that the monthly self-reported effluent violations do not overly-impact the penalty amount and to prevent double-enhancement of the penalty amount for same violations that were not self-reported.

Final Penalty Amount: **$5,880**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$5,880**

DEFERRAL — **20.0%** Reduction — *Adjustment*: **-$1,176**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: **$4,704**

Screening Date 6-Sep-2010 **Docket No.** 2010-1448-MWD-E **PCW**

Respondent City of Holland

Case ID No. 40344

Reg. Ent. Reference No. RN102075983

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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*)	36	180%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		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) 202%

>> 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, one NOV with same/similar violations, and one NOV with dissimilar violations, and one agreed order with denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 202%

Screening Date 6-Sep-2010 **Docket No.** 2010-1448-MWD-E **PCW**

Respondent City of Holland *Policy Revision 2 (September 2002)*

Case ID No. 40344 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102075983

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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. WQ0010897001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented in a record review conducted on August 11, 2010. See attached Effluent Limit Violation Table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			x
	Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate biochemical oxygen demand ("BOD5") 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 insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 2 — 182 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two 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 $2,000

Economic Benefit (EB) for this violation

Estimated EB Amount $790

Statutory Limit Test

Violation Final Penalty Total $5,880

This violation Final Assessed Penalty (adjusted for limits) $5,880

Economic Benefit Worksheet

Respondent City of Holland
Case ID No. 40344
Req. Ent. Reference No. RN102075983
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	$10,000	31-Dec-2009	31-Jul-2011	1.58	$790	n/a	$790
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the month the first non-compliant excursion was documented. 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 $10,000

TOTAL $790

Effluent Limit Violation Table	
Respondent	City of Holland
ID Number(s)	TPDES Permit No. WQ0010897001; Case No. 40344
Docket Number	2010-1448-MWD-E
Enf. Coordinator	Jorge Ibarra, P.E.
Corresponds to Violation Number:	1

EFFLUENT PARAMETER ***Permit Limit***	
Effluent Parameter	BOD_5 Daily Avg. Conc.
Month/Year	Limit = 30 mg/L
12/31/2009	31.4
1/31/2010	32
2/28/2010	34.75
3/31/2010	31.2
4/30/2010	38.8
5/31/2010	34
	BOD_5 = biochemical oxygen demand (5-Day)
	conc. = concentration
	avg. = average
	mg/L = milligrams per liter

Compliance History Report

Customer/Respondent/Owner-Operator: CN600755128 City of Holland Classification: AVERAGE Rating: 3.01

Regulated Entity: RN102075983 CITY OF HOLLAND Classification: AVERAGE Site Rating: 3.01

ID Number(s):

WASTEWATER	PERMIT	WQ0010897001
WASTEWATER	EPA ID	TX0046612
WASTEWATER LICENSING	LICENSE	WQ0010897001

Location: LOCATED APPROXIMATELY 0.5 MILE EAST OF THE INTERSECTION OF TRAVIS STREET AND UNITED STATES HIGHWAY 95 IN BELL COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: September 08, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 08, 2005 to September 08, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra Phone: (817) 588-5890

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: 10/04/2007 ADMINORDER 2007-0219-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov EFFLUENT LIMITS PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov Self-reporting Requirements PERMIT
Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	09/23/2005	(442838)
2	10/20/2005	(472258)
3	11/23/2005	(472259)
4	12/30/2005	(472260)
5	01/23/2006	(472261)
6	02/21/2006	(472256)
7	03/10/2006	(454891)
8	03/22/2006	(472257)
9	04/20/2006	(500651)
10	05/22/2006	(500652)
11	06/19/2006	(500653)
12	07/28/2006	(522784)
13	08/30/2006	(522785)
14	09/15/2006	(522786)
15	10/23/2006	(547531)
16	11/21/2006	(547532)

17	12/18/2006	(547533)
18	01/25/2007	(547534)
19	01/26/2007	(536203)
20	03/12/2007	(580226)
21	03/29/2007	(580227)
22	05/02/2007	(580228)
23	09/17/2007	(603048)
24	09/17/2007	(603049)
25	09/17/2007	(603050)
26	09/17/2007	(603051)
27	10/25/2007	(621502)
28	10/25/2007	(621503)
29	12/27/2007	(621504)
30	12/27/2007	(621505)
31	01/29/2008	(673474)
32	02/21/2008	(673473)
33	03/26/2008	(691705)
34	04/17/2008	(691706)
35	05/06/2008	(608994)
36	06/20/2008	(712664)
37	07/30/2008	(712665)
38	09/02/2008	(712666)
39	09/24/2008	(712667)
40	10/14/2008	(705163)
41	10/24/2008	(728893)
42	12/29/2008	(728894)
43	01/23/2009	(752016)
44	01/28/2009	(720962)
45	02/20/2009	(752015)
46	03/20/2009	(769764)
47	04/14/2009	(704017)
48	04/22/2009	(769765)
49	04/24/2009	(737593)
50	05/12/2009	(774861)
51	05/15/2009	(769766)
52	05/15/2009	(769768)
53	05/20/2009	(769767)
54	07/21/2009	(808806)
55	07/24/2009	(808805)
56	09/18/2009	(759175)
57	09/24/2009	(808807)
58	10/28/2009	(808808)
59	11/20/2009	(808809)
60	12/30/2009	(808810)
61	01/26/2010	(808811)
62	03/01/2010	(808804)
63	03/25/2010	(832384)
64	04/26/2010	(832385)
65	05/27/2010	(832386)
66	06/24/2010	(846732)
67	08/27/2010	(848366)

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

Date 09/30/2005 (472258) CN600755128

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 (472259) CN600755128

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 11/30/2005 (472260) CN600755128
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 (472261) CN600755128
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 (472256) CN600755128
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 (472257) CN600755128
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 (500651) CN600755128
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 (500652) CN600755128
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 (547533) CN600755128
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 (547534) CN600755128
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 (580226) CN600755128
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 (580227) CN600755128
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 (580228) CN600755128
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 (603048) CN600755128
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 (603051) CN600755128
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 (621503) CN600755128
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 11/30/2007 (621505) CN600755128
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 12/31/2007 (673474) CN600755128
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 (673473) CN600755128
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 02/29/2008 (691705) CN600755128
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 (691706) CN600755128
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 (769766) CN600755128
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 05/31/2008 (712664) CN600755128
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 (728894) CN600755128
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 12/31/2008 (752016) CN600755128
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 01/31/2009 (752015) CN600755128
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 02/28/2009 (769764) CN600755128
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 03/31/2009 (769765) CN600755128
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 04/27/2009 (737593) CN600755128
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(c)
Monitoring and Reporting Requirements PERMIT
Description: Failure by the permittee to retain copies of records for all monitoring and reporting records for a period of at least three years and have readily available for review by a TCEQ representative.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements PERMIT
Description: Failure by the permittee to furnish certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization of the facility.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring and Reporting Requirements PERMIT
Description: Failure by the permittee to retain copies of records for all monitoring activities related to sludge use for a period of at least five years and have them readily available for review by a TCEQ representative.

Self Report? NO Classification: Minor
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations and Monitoring Req. PERMIT
Description: Failure by the permittee to discharge effluent in compliance with permitted effluent limitations.

Date 04/30/2009 (769767) CN600755128
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 05/12/2009 (774861) CN600755128
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

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

Date 12/31/2009 (808811) CN600755128
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 (808804) CN600755128
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 (832384) CN600755128
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 03/31/2010 (832385) CN600755128
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 (832386) CN600755128
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 (846732) CN600755128

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

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING CITY OF HOLLAND RN102075983	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1448-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Holland ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment system located approximately 0.5 mile east of the intersection of Travis Street and United States Highway 95 in Bell 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 August 30, 2010.

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 Five Thousand Eight Hundred Eighty Dollars ($5,880) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). 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 the administrative penalty. Therefore, the Five Thousand Eight Hundred Eighty Dollar ($5,880) 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, including the payment schedule, 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 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.

10. 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.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to 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. WQ0010897001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 11, 2010 and shown in the table below:

Effluent Parameter	BOD5 Daily Avg. Conc.
Month/Year	Limit = 30 mg/L
12/31/2009	31.4
1/31/2010	32
2/28/2010	34.75
3/31/2010	31.2
4/30/2010	38.8
5/31/2010	34
	BOD5 = biochemical oxygen demand (5-Day)
	conc. = concentration
	avg. = average
	mg/L = milligrams per liter

III. DENIALS

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

IV. ORDERING PROVISIONS

1. 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.

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010897001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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. 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.

7. 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.

8. 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

_____ 5/20/2011
For the Executive Director 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.

_____ 4-5-11
Signature Date

Mae Smith Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Holland

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.