

CITY OF ELSA

RN101610251

Docket No. 2011-0564-MWD-E

**Order Type:**

Default Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

N/A

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

Approximately 0.5 miles southwest of the intersection of Farm-to-Market Road 1925 and State Highway 88, Hidalgo County

**Type of Operation:**

wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** December 9, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$5,725

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

**Total Due to General Revenue:** \$5,725

**Compliance History Classifications:**

Person/CN – Average  
Site/RN – Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

CITY OF ELSA

RN101610251

Docket No. 2011-0564-MWD-E

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** February 10, 2011  
**Date(s) of NOV(s):** See Compliance History – 20 related NOVs  
**Date(s) of NOE(s):** February 24, 2011

***Violation Information***

1. Failed to timely submit effluent monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d); and TPDES Permit No. WQ0011510002, Monitoring and Reporting Requirements No. 1].
2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, by September 1, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1) and (17); and TPDES Permit No. WQ0011510002, Sludge Provisions].
3. Failed to comply with permitted effluent limitations [TEX WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0011510002, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements*****Corrective Action(s) Completed:**

1. On May 13, 2011, submitted for the monitoring periods ending August 31, September 30, and October 31, 2010;
2. On June 14, 2011, submitted the DMR for the monitoring period ending June 30, 2010; and
3. On June 16, 2011, submitted the annual sludge report for the monitoring period ending July 31, 2010.

**Technical Requirements:**

1. 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 signed and certified monthly DMRs and annual sludge reports;
2. Within 45 days, submit written certification of compliance with Technical Requirement No. 1.; and
3. Within 90 days, submit written certification of compliance with permitted effluent limitations, including specific corrective actions that were implemented 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:** September 22, 2011  
**Date(s) Green Card(s) Signed:** September 26, 2011  
**Date(s) Answer(s) Filed:** N/A

**CITY OF ELSA**

**RN101610251**

**Docket No. 2011-0564-MWD-E**

***Contact Information***

**TCEQ Attorneys:** Rudy Calderon, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ Enforcement Coordinator:** Marty Hott, Water Enforcement Section, (512) 239-2587

**TCEQ Regional Contact:** Jaime Garza, Harlingen Regional Office, (956) 430-6030

**Respondent:** The Honorable Alonso Perez, Mayor of Elsa, P.O. Box 427, Elsa, Texas 78543

**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	28-Feb-2011	<b>Screening</b>	11-Apr-2011	<b>EPA Due</b>	
	<b>PCW</b>	3-Aug-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Elsa		
<b>Reg. Ent. Ref. No.</b>	RN101610251		
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41470	<b>No. of Violations</b>	3
<b>Docket No.</b>	2011-0564-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Marty Hott
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	129.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,225
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Notes: Enhancement for 15 months of self-reported effluent violations, five NOVs with same/similar violations, two NOVs with dissimilar violations, and one agreed order without a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$893
Approx. Cost of Compliance	\$10,400

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,725
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$5,725
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,725
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,725
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**Screening Date** 11-Apr-2011

**Docket No.** 2011-0564-MWD-E

**PCW**

**Respondent** City of Elsa

*Policy Revision 2 (September 2002)*

**Case ID No.** 41470

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101610251

**Media [Statute]** Water Quality

**Enf. Coordinator** Marty Hott

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	20	100%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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)** 129%

#### >> 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 15 months of self-reported effluent violations, five NOVs with same/similar violations, two NOVs with dissimilar violations, and one agreed order without a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 129%

Screening Date 11-Apr-2011

Docket No. 2011-0564-MWD-E

PCW

Respondent City of Elsa

Policy Revision 2 (September 2002)

Case ID No. 41470

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610251

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011510002, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit effluent monitoring results at the intervals specified in the permit, as documented during a record review conducted on February 10, 2011. Specifically, the discharge monitoring reports ("DMR") were not submitted for the monitoring periods ending June 30, 2010; August 31, 2010; September 30, 2010; and October 31, 2010 by the 20th day of the following month.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				x	1%

Matrix Notes 70% or more of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 4 265 Number of violation days

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

Violation Base Penalty \$400

Four single events are recommended (one event per DMR).

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 \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$916

This violation Final Assessed Penalty (adjusted for limits) \$916

## Economic Benefit Worksheet

**Respondent** City of Elsa  
**Case ID No.** 41470  
**Req. Ent. Reference No.** RN101610251  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	10-Feb-2011	1-Oct-2011	0.64	\$8	n/a	\$8
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-Jul-2010	14-Jun-2011	0.90	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished (\$250). The date required is the date of the investigation and the final date is the expected date of compliance.

Estimated cost to submit the DMRs for the monitoring periods ending June 30, 2010; August 31, 2010; September 30, 2010; and October 31, 2010 (\$25 per DMR). Date required is the date the first missing DMR was due and the 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	\$350	<b>TOTAL</b>	\$12
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Screening Date 11-Apr-2011

Docket No. 2011-0564-MWD-E

PCW

Respondent City of Elsa

Policy Revision 2 (September 2002)

Case ID No. 41470

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610251

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0011510002, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010, as documented in a record review conducted on February 10, 2011.

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	Major	Moderate	Minor	Percent
				x	
70% or more of the rule requirement was met.					
Adjustment					\$9,900

\$100

Violation Events

Number of Violation Events 1 222 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

Statutory Limit Test

Estimated EB Amount \$2 Violation Final Penalty Total \$229

This violation Final Assessed Penalty (adjusted for limits) \$229

## Economic Benefit Worksheet

**Respondent** City of Elsa  
**Case ID No.** 41470  
**Req. Ent. Reference No.** RN101610251  
**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)				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)	\$50	1-Sep-2010	16-Jun-2011	0.79	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit the annual sludge report for the monitoring period ending July 31, 2010. Date required is the date the annual sludge report was due and the 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

\$50

**TOTAL**

\$2

Screening Date 11-Apr-2011

Docket No. 2011-0564-MWD-E

PCW

Respondent City of Elsa

Policy Revision 2 (September 2002)

Case ID No. 41470

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610251

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011510002 Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on February 10, 2011 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also evaluated. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

90 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

Statutory Limit Test

Estimated EB Amount \$878

Violation Final Penalty Total \$4,580

This violation Final Assessed Penalty (adjusted for limits) \$4,580

## Economic Benefit Worksheet

**Respondent** City of Elsa  
**Case ID No.** 41470  
**Req. Ent. Reference No.** RN101610251  
**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)				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)	\$10,000	28-Feb-2010	1-Dec-2011	1.76	\$878	n/a	\$878

Notes for DELAYED costs

Estimated cost to evaluate the Facility to determine the cause of the effluent violations and complete corrective actions. Date required is the first month of noncompliance and 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**

\$878

City of Elsa  
 TPDES Permit No. WQ0011510002  
 Docket No. 2011-0564-MWD-E  
 Case No. 41470

<b>EFFLUENT VIOLATION TABLE</b>			
<b>Months</b>	<b>CBOD Daily Avg. Conc.</b>	<b>CBOD Daily Max. Conc.</b>	<b>TSS Daily Avg. Conc.</b>
	<b>Limit = 10 mg/L</b>	<b>Limit = 25 mg/L</b>	<b>Limit = 15 mg/L</b>
<b>February 2010</b>	11	c	c
<b>March 2010</b>	c	37	c
<b>July 2010</b>	c	c	20

Avg. = average

Max. = maximum

mg/L = milligrams per Liter

CBOD = carbonaceous biochemical oxygen demand

Conc. = concentration

TSS = total suspended solids

c = compliant

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# Compliance History

Customer/Respondent/Owner-Operator: CN600661409 City of Elsa Classification: AVERAGE Rating: 5.05  
Regulated Entity: RN101610251 CITY OF ELSA Classification: AVERAGE Site Rating: 9.13  
ID Number(s): WASTEWATER PERMIT WQ0011510002  
WASTEWATER EPA ID TX0104990  
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150107

Location: Located approximately 0.5 mile southwest of the intersection of Farm-To-Market Road 1925 and State Highway 88, Hidalgo County, Texas

TCEQ Region: REGION 15 - HARLINGEN  
Date Compliance History Prepared: April 11, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: April 11, 2006 to April 11, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Marty Hott Phone: (512) 239-2587

## 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: 01/12/2008**

**ADMINORDER 2004-0026-MWD-E**

Classification: Moderate

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

Rqmt Prov: TPDES Permit No. 11510-002 OP

Description: Failure to prevent an unauthorized discharge of wastewater or any other waste.

Classification: Moderate

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

Rqmt Prov: TPDES Permit No. 11510-002 OP

Description: Failure to ensure that the facility was operated and maintained by a chief operator or operator-in-charge holding a valid class C certificate of competency or higher.

Classification: Major

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

Rqmt Prov: TPDES Permit No. 11510-002 OP

Description: Failure to comply with the permitted effluent single grab limit of 60 milligrams per liter for total suspended solids.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(c)(2)

Description: Failure to ensure that the firm pumping capacity of the facility's on-site lift stations was such that the expected peak flow could be pumped to its desired destination.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: TPDES Permit No. 11510-002 OP

Description: Failure to ensure that the oxidation ditch treatment unit was properly operated and maintained.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: TPDES Permit No. 11510-002 OP

Description: Failure to ensure that the return lines from the digester and sludge drying beds were properly operated and maintained.

Classification: Moderate

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

Rqmt Prov: TPDES Permit No. 11510-002 OP

Description: Failure to prevent the discharge of floating solids or visible foam in other than trace amounts in the receiving stream.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702  
2D TWC Chapter 26, SubChapter A 26.0291  
30 TAC Chapter 21 21.4  
30 TAC Chapter 290, SubChapter E 290.51(a)(3)  
5A THC Chapter 341, SubChapter A 341.041

Description: Failed to pay all outstanding consolidated water quality fees and public health service fees.

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	04/14/06	(505171)	32	12/01/08	(731943)
2	04/14/06	(505172)	33	12/01/08	(731944)
3	06/27/06	(505173)	34	12/01/08	(731945)
4	06/27/06	(505174)	35	12/01/08	(731946)
5	06/27/06	(505175)	36	12/01/08	(731947)
6	04/14/06	(505176)	37	12/01/08	(731948)
7	04/14/06	(505177)	38	12/01/08	(731949)
8	01/31/07	(538625)	39	12/01/08	(731950)
9	01/29/07	(551189)	40	12/22/08	(731951)
10	01/29/07	(551190)	41	03/18/09	(737911)
11	01/29/07	(551191)	42	06/09/09	(738709)
12	01/29/07	(551192)	43	01/08/10	(783670)
13	01/30/07	(551193)	44	02/22/10	(817286)
14	01/30/07	(551194)	45	05/18/09	(817287)
15	01/30/07	(551195)	46	05/18/09	(817288)
16	02/16/07	(587836)	47	05/18/09	(817289)
17	11/30/07	(601269)	48	06/29/09	(817290)
18	08/02/07	(605232)	49	07/22/09	(817291)
19	08/02/07	(605233)	50	10/05/09	(817292)
20	08/02/07	(605234)	51	11/12/09	(817293)
21	08/02/07	(605235)	52	11/19/09	(817294)
22	08/02/07	(605236)	53	12/30/09	(817295)
23	12/27/07	(628738)	54	01/22/10	(817296)
24	12/27/07	(628739)	55	07/08/10	(827685)
25	12/27/07	(628740)	56	03/18/10	(835291)
26	12/27/07	(628741)	57	04/15/10	(835292)
27	12/27/07	(628742)	58	05/10/10	(835293)
28	04/08/08	(639158)	59	07/22/10	(883032)
29	10/03/08	(703995)	60	12/01/08	(889450)
30	11/25/08	(707112)	61	02/25/11	(895583)
31	12/01/08	(731942)	62	01/14/11	(905025)

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

<b>Date:</b>	04/30/2006	(505174)	CN600661409	
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			
<b>Date:</b>	05/31/2006	(505175)	CN600661409	
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			
<b>Date:</b>	08/23/2006	(483780)	CN600661409	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. 11510-002 OP			
Description:	Failure to ensure that the facility was operated and maintained by a chief operator or operator-in-charge holding a valid class C certificate of competency or higher.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) TPDES Permit No. 11510-002 OP			
Description:	Failure to ensure that the oxidation ditch treatment unit was properly operated and maintained.			
Self Report?	NO		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. 11510-002 OP			
Description:	Failure to prevent discharge of floating solids or visible foam in other than trace amounts in the receiving stream.			
<b>Date:</b>	08/31/2006	(551191)	CN600661409	
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			

<b>Date:</b>	09/30/2006	(551192)	CN600661409	
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			
<b>Date:</b>	01/31/2007	(587836)	CN600661409	
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			
<b>Date:</b>	03/31/2007	(605233)	CN600661409	
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			
<b>Date:</b>	06/30/2007	(605236)	CN600661409	
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			
<b>Date:</b>	11/30/2007	(601269)	CN600661409	
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)			
Description:	Failure to annually test backflow prevention device.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(5)			
Description:	Failure to provide auxiliary power for the wastewater treatment facility.			
Self Report?	NO		Classification:	Minor
Citation:	Section III, G. (Page 22) PERMIT			
Description:	Failure to submit annual sludge report.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.2(d)(5)(E) Operational Requirements, 1. (Page 9) PERMIT			
Description:	Failure to ensure at all times that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d)(2)			
Description:	Failure to properly operate and maintain the clarifier.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements, 1. (Page 9) PERMIT			
Description:	Failure to ensure at all times that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.			
Self Report?	NO		Classification:	Minor
Citation:	Operational Requirements, 1. (Page 9) PERMIT			
Description:	Failure to ensure at all times that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.3(b)(3)			
Description:	Failure to have automatically operated pump control mechanisms at all lift stations.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(c)(5)			
Description:	Failure to provide self-priming pumps to all lift stations.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(e)(5)			
Description:	Failure to provide audiovisual alarm systems for all lift stations.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8)			
Description:	Failure to equip all wash down hoses using potable water with atmospheric vacuum breakers.			
Self Report?	NO		Classification:	Minor
Citation:	Monitoring and Reporting Requirements, 1 PERMIT			
Description:	Failure to submit monthly effluent report each month by th 20th day of the following month.			
<b>Date:</b>	12/21/2007	(609118)	CN600661409	
Self Report?	NO		Classification:	Moderate
Citation:	TWC Chapter 26 26.121			
Description:	Failure to prevent an unauthorized discharge of untreated wastewater into or adjacent to the waters of the State.			

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9)(A)		
Description:	Failure to notify the TCEQ in writing within five days of any unauthorized discharge into or adjacent into the waters in the state.		
<b>Date:</b>	02/29/2008 (731942)	CN600661409	
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		
<b>Date:</b>	07/31/2008 (731947)	CN600661409	
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		
<b>Date:</b>	11/25/2008 (707112)	CN600661409	
Self Report?	NO	Classification:	Minor
Citation:	Section III, G. (Page 22) PERMIT		
Description:	Failure to submit annual sludge report.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)		
Description:	Failure to annually test the RPZ backflow prevention device.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.2		
Description:	Operational Requirements, 1. (Page 9) PERMIT Failure to properly operate and maintain the collection system. Specifically, two of the lift stations visited had malfunctioning audio/visual alarms.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)		
Description:	Operational Requirements, 1. (Page9) PERMIT Failure to properly operate and maintain the chlorine contact basins.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting Requirements, PERMIT		
Description:	Failure to calibrate the secondary flow measuring devices annually or more frequently, if needed.		
<b>Date:</b>	03/27/2009 (735654)	CN600661409	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) TX0104990 PERMIT		
Description:	Failure to properly operate and maintain all systems of collection, treatment and disposal.		
<b>Date:</b>	04/30/2009 (817289)	CN600661409	
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		
<b>Date:</b>	06/30/2009 (817291)	CN600661409	
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		
<b>Date:</b>	10/26/2009 (776784)	CN600661409	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Ordering Provisions PERMIT		
Description:	Failure to properly operate and maintain wastewater treatment plant. Specifically, the operator placed a corrosive substance (granular alkaline drain opener) of pH 14 into the on-site lift station,resulting in a plant upset.		
<b>Date:</b>	10/31/2009 (817294)	CN600661409	
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		
<b>Date:</b>	02/28/2010 (835291)	CN600661409	
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		

<b>Date:</b>	03/31/2010	(835292)	CN600661409	
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			
<b>Date:</b>	07/31/2010	(883032)	CN600661409	
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			
<b>Date:</b>	01/14/2011	(905025)	CN600661409	
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			
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			

- 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF ELSA;  
RN101610251**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2011-0564-MWD-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is City of Elsa ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates wastewater treatment facility located approximately 0.5 miles southwest of the intersection of Farm-to-Market Road 1925 and State Highway 88 in Hidalgo County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During a record review conducted on February 10, 2011, a TCEQ Central Office investigator documented that Respondent:
  - a. Failed to timely submit effluent monitoring results at the intervals specified in the permit. Specifically, the Discharge Monitoring reports ("DMRs") were not submitted for the monitoring periods ending June 30, 2010, August 31, 2010, September 30, 2010, and October 31, 2010, by the 20th day of the following month;
  - b. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, by September 1, 2010; and
  - c. Failed to comply with permitted effluent limitations as shown in the following table:

<b>EFFLUENT VIOLATION TABLE</b>			
<b>Months</b>	<b>CBOD Daily Avg. Conc.</b>	<b>CBOD Daily Max. Conc.</b>	<b>TSS Daily Avg. Conc.</b>
	<b>Limit = 10 mg/L</b>	<b>Limit = 25 mg/L</b>	<b>Limit = 15 mg/L</b>
<b>February 2010</b>	11	c	c
<b>March 2010</b>	c	37	c
<b>July 2010</b>	c	c	20

Avg. = average                      Max. = maximum                      mg/L = milligrams per Liter  
CBOD = carbonaceous biochemical oxygen demand                      Conc. = concentration  
TSS = total suspended solids                      c = compliant

3. Respondent received notice of the violations on or about March 1, 2011.
4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
  - a. On May 13, 2011, Respondent submitted the DMRs for the monitoring periods ending August 31, 2010; September 30, 2010; and October 31, 2010;
  - b. On June 14, 2011, Respondent submitted the DMR for the monitoring period ending June 30, 2010; and
  - c. On June 16, 2011, Respondent submitted the annual sludge report for the monitoring period ending July 31, 2010.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of City of Elsa" (the "EDPRP") in the TCEQ Chief Clerk's office on September 22, 2011.
6. By letter dated September 22, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on September 26, 2011, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to timely submit effluent monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d); and TPDES Permit No. WQ0011510002, Monitoring and Reporting Requirements No. 1.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2010, by September 1, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17); and TPDES Permit No. WQ0011510002, Sludge Provisions.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0011510002, Effluent Limitations and Monitoring Requirements No. 1.
5. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of five thousand seven hundred twenty-five dollars (\$5,725.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of five thousand seven hundred twenty-five dollars (\$5,725.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely

resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Elsa; Docket No. 2011-0564-MWD-E" to:

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

3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Respondent shall update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0011510002;
  - b. Within 45 days after the effective date of this Order, Respondent shall submit written certification of compliance with Ordering Provision No. 3.a., in accordance with Ordering Provision No. 3.d. below;
  - c. Within 90 days after the effective date of this Order, Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011510002, including specific corrective actions that were 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, in accordance with Ordering Provision No. 3.d. below; and
  - d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Jaime Garza, Water Section Manager  
Texas Commission on Environmental Quality  
Harlingen Regional Office  
1804 W. Jefferson Ave.  
Harlingen, Texas 78550-5247

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF RUDY CALDERON**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

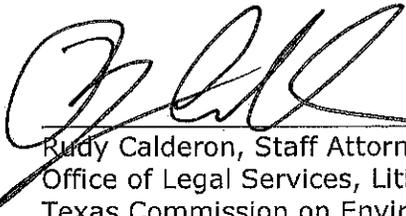
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"My name is Rudy Calderon. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of the City of Elsa" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 22, 2011.

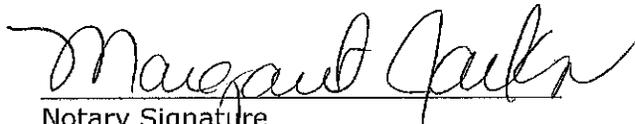
The EDPRP was mailed to Respondent's last known address on September 22, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on September 26, 2011, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

  
Rudy Calderon, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rudy Calderon, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 9 day of November, A.D. 2011.

  
Notary Signature

