

Executive Summary – Enforcement Matter – Case No. 42010

City of Nacogdoches

RN101611283

Docket No. 2011-1116-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Nacogdoches Plant 2A, located on the east side of Bayou La Nana between Farm-to-Market ("FM") Road 1275 and FM Road 2863, Nacogdoches, Nacogdoches 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: November 4, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,300

Amount Deferred for Expedited Settlement: \$1,660

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,640

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: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42010

City of Nacogdoches

RN101611283

Docket No. 2011-1116-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 16, 2011

Date(s) of NOE(s): April 14, 2011

Violation Information

1. Failed to submit a pretreatment program modification by September 23, 2010 containing all required Streamlining Rule provisions [30 TEX. ADMIN. CODE § 315.1, 40 CODE OF FEDERAL REGULATIONS (“CFR”) §§ 403.5(c)(1) and 403.8(f)(1) and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements No. 1].

2. Failed to submit written notification that a technical redevelopment of the current technically based local limits (“TBLLs”), draft legal authority which incorporates such revisions, and any additional modifications of the pretreatment program including the enforcement response plan, and standard operating procedures and all required Streamlining Rule provisions will be submitted by September 23, 2010 [30 TEX. ADMIN. CODE § 315.1, 40 CFR § 403.5(c)(1) and TPDES Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements No. 2(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 45 days, submit a pretreatment program modification containing all required Streamlining Rule provisions, along with the technical redevelopment of the current TBLLs, draft legal authority which incorporates such revisions, and any additional modifications of the pretreatment program including the enforcement response plan, and standard operating procedures;

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning TPDES Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements, within 30 days after the date of such requests or by any other deadline specified in writing; and

c. Within 60 days, submit written certification demonstrating compliance.

Executive Summary – Enforcement Matter – Case No. 42010
City of Nacogdoches
RN101611283
Docket No. 2011-1116-MWD-E

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: Jorge Ibarra, P.E., Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Lila Fuller, Acting City Manager, City of Nacogdoches, P.O. Box 635030,
Nacogdoches, Texas 75963
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	5-Jul-2011	Screening	5-Jul-2011	EPA Due	
	PCW	13-Jul-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Nacogdoches		
Reg. Ent. Ref. No.	RN101611283		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	42010	No. of Violations	2
Docket No.	2011-1116-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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for one agreed order containing denial of liability, six NOV's with dissimilar violations, and 17 months of self-reported effluent violations.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$1,699	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$25,000	

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 5-Jul-2011

Docket No. 2011-1116-MWD-E

PCW

Respondent City of Nacogdoches

Policy Revision 2 (September 2002)

Case ID No. 42010

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611283

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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>)	0	0%
	Other written NOVs	23	46%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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) 66%

>> **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 one agreed order containing denial of liability, six NOVs with dissimilar violations, and 17 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 66%

Screening Date 5-Jul-2011
Respondent City of Nacogdoches
Case ID No. 42010
Reg. Ent. Reference No. RN101611283
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 1

Docket No. 2011-1116-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Rule Cite(s)

30 Tex. Admin. Code § 315.1, 40 Code of Federal Regulations ("CFR") §§ 403.5(c)(1) and 403.8(f)(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements No. 1

Violation Description

Failed to submit a pretreatment program modification by September 23, 2010 containing all required Streamlining Rule provisions.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$340

Violation Final Penalty Total \$4,150

This violation Final Assessed Penalty (adjusted for limits) \$4,150

Economic Benefit Worksheet

Respondent City of Nacogdoches
Case ID No. 42010
Reg. Ent. Reference No. RN101611283
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
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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	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)	\$5,000	23-Sep-2010	1-Feb-2012	1.36	\$340	n/a	\$340

Notes for DELAYED costs

Estimated cost to submit a pretreatment program modification containing all required Streamlining Rule provisions. Date required is the date the pretreatment program modification package was due; and final date is the expected compliance date.

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

\$5,000

TOTAL

\$340

Screening Date 5-Jul-2011

Docket No. 2011-1116-MWD-E

PCW

Respondent City of Nacogdoches

Policy Revision 2 (September 2002)

Case ID No. 42010

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611283

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 315.1, 40 CFR § 403.5(c)(1) and TPDES Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements No. 2(2)

Violation Description

Failed to submit written notification that a technical redevelopment of the current technically based local limits ("TBLLS"), draft legal authority which incorporates such revisions, and any additional modifications of the pretreatment program including the enforcement response plan, and standard operating procedures and all required Streamlining Rule provisions will be submitted by September 23, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,359

Violation Final Penalty Total \$4,150

This violation Final Assessed Penalty (adjusted for limits) \$4,150

Economic Benefit Worksheet

Respondent City of Nacogdoches
Case ID No. 42010
Reg. Ent. Reference No. RN101611283
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)	\$20,000	23-Sep-2010	1-Feb-2012	1.36	\$1,359	n/a	\$1,359

Notes for DELAYED costs

Estimated cost to submit a technical redevelopment of the current TBLLs and additional program components. Date required is the date the technical redevelopment package was due; and final date is the expected compliance date.

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

\$20,000

TOTAL

\$1,359

Compliance History

Customer/Respondent/Owner-Operator:	CN600134076 City of Nacogdoches	Classification: AVERAGE	Rating: 2.75
Regulated Entity:	RN101611283 NACOGDOCHES PLANT 2A	Classification: AVERAGE	Site Rating: 2.58
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID PRETREATMENT EPA ID PRETREATMENT PERMIT WASTEWATER LICENSING LICENSE		WQ0010342004 TX0055123 TX0055123000 WQ0010342004 WQ0010342004
Location:	Located on the east side of Bayou La Nana between Farm-to-Market ("FM") Road 1275 and FM Road 2863 in Nacogdoches County, Texas		
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	July 05, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 05, 2006 to July 05, 2011		

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

Name: Jorge Ibarra, P.E. 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: 10/23/2008

ADMINORDER 2004-0157-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 effluent permitted limits for ammonia nitrogen, chlorine residual, dissolved oxygen and total suspended solids, as detailed in the attached Effluent Limit Violation table.

- 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 | 08/23/2006 | (488616) |
| 2 | 09/01/2006 | (509245) |
| 3 | 08/17/2006 | (523776) |
| 4 | 08/14/2006 | (523777) |
| 5 | 10/04/2007 | (543784) |
| 6 | 10/24/2006 | (548784) |
| 7 | 11/20/2006 | (548785) |
| 8 | 12/15/2006 | (548786) |

9	12/27/2006	(548787)
10	06/26/2007	(562702)
11	07/20/2007	(567765)
12	02/20/2007	(582050)
13	03/19/2007	(582051)
14	04/16/2007	(582052)
15	05/15/2007	(582053)
16	06/22/2007	(582054)
17	04/25/2007	(582055)
18	10/09/2007	(593961)
19	07/20/2007	(603481)
20	08/13/2007	(603482)
21	09/24/2007	(603483)
22	12/11/2007	(621948)
23	11/27/2007	(621949)
24	02/22/2008	(673851)
25	03/17/2008	(673852)
26	04/14/2008	(673853)
27	04/03/2008	(679835)
28	07/02/2008	(682977)
29	04/22/2008	(692107)
30	05/19/2008	(692108)
31	06/20/2008	(692109)
32	07/17/2008	(713175)
33	08/20/2008	(713176)
34	09/23/2008	(713177)
35	01/05/2009	(722044)
36	10/20/2008	(729314)
37	11/18/2008	(729315)
38	12/19/2008	(729316)
39	02/19/2009	(752505)
40	03/18/2009	(752506)
41	01/22/2009	(752507)
42	04/13/2009	(770154)
43	04/13/2009	(770155)
44	02/16/2010	(810031)
45	11/16/2009	(810032)
46	12/28/2009	(810033)
47	04/19/2010	(810034)
48	06/17/2010	(825301)
49	03/19/2010	(832775)
50	04/21/2010	(832776)
51	08/09/2010	(843425)
52	06/11/2010	(845224)
53	06/21/2010	(846866)
54	08/02/2010	(867593)
55	08/23/2010	(867594)

56	09/22/2010	(874569)
57	10/22/2010	(882146)
58	11/22/2010	(902900)
59	02/18/2011	(909765)
60	12/17/2010	(909766)
61	01/24/2011	(909767)
62	03/21/2011	(916994)
63	05/24/2011	(920466)
64	06/27/2011	(920692)
65	04/14/2011	(927053)
66	05/21/2009	(927054)
67	06/23/2009	(927055)
68	07/20/2009	(927056)
69	12/14/2009	(927057)
70	09/18/2009	(927058)
71	10/26/2009	(927059)

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

Date:	08/24/2006	(488616)	CN600134076
Self Report?	NO		Classification: Moderate
Citation:	SP III G PERMIT		
Description:	Failure by the City of Nacogdoches to submit an annual sludge report with all of the required information attached to the TCEQ Region 10 office and TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.		
Self Report?	NO		Classification: Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO		Classification: Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO		Classification: Moderate
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO		Classification: Moderate
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO		Classification: Moderate
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 335, SubChapter A 335.4(1)		
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO		Classification: Moderate
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO		Classification: Minor
Citation:	M&RR 7a PERMIT		
Description:	Failure by the City of Nacogdoches to report unauthorized discharges to the Region 10 office within		

24 hours of becoming aware of the discharge and include all of the required information on the reporting form.

Self Report?	NO	Classification:	Minor
Citation:	M&RR 5 PERMIT OpR 1 PERMIT		
Description:	Failure by the permittee to have the secondary flow measuring device calibrated at least annually or as often as necessary to ensure accuracy.		
Self Report?	NO	Classification:	Minor
Citation:	PC 1a PERMIT		
Description:	Failure by the City of Nacogdoches to accurately complete the discharge monitoring reports (DMRs).		
Self Report?	NO	Classification:	Minor
Citation:	M&RR 3b PERMIT		
Description:	Failure by the City of Nacogdoches to have required records readily available for review at the time of the investigation.		
Self Report?	NO	Classification:	Minor
Citation:	OpR 2 PERMIT		
Description:	Failure by the City of Nacogdoches to maintain sludge disposal records in accordance with 30 TAC Chapter 312.45.		
Date	09/30/2006 (548784)	CN600134076	
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 (548786)	CN600134076	
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 (548787)	CN600134076	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/25/2007 (562702)	CN600134076	
Self Report?	NO	Classification:	Minor
Citation:	40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(ii)		
Description:	Failing to identify the volume and character of Cooper Power System's process wastewater being discharged to the publically owned treatment works (POTW) by failing to assure that dilution is not being used as a means of achieving compliance with applicable pretreatment standards for new sources contained in 40 CFR Part 433.		
Date	06/30/2007 (603481)	CN600134076	
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 (603483)	CN600134076	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/30/2007 (621948)	CN600134076	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date	10/31/2007	(621949)	CN600134076		
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	(673853)	CN600134076		
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	(673851)	CN600134076		
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	(673852)	CN600134076		
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	(692107)	CN600134076		
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	04/03/2008	(679835)	CN600134076		
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	07/03/2008	(682977)	CN600134076		
Self Report?	NO			Classification:	Minor
Citation:	OpR 1 PERMIT				
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.				
Self Report?	NO			Classification:	Moderate
Citation:	OpR 1 PERMIT				
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.				
Self Report?	NO			Classification:	Moderate
Citation:	OpR 1 PERMIT				
Description:	Failure by the City of Nacogdoches to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.				
Self Report?	NO			Classification:	Minor
Citation:	OpR 1 PERMIT				
Description:	Failure by the City of Nacogdoches to properly maintain units of conveyance.				
Self Report?	NO			Classification:	Moderate
Citation:	OpR1 PERMIT				
Description:	Failure to maintain units of conveyance.				
Self Report?	NO			Classification:	Minor
Citation:	OpR1 PERMIT				
Description:	Failure to maintain rotating disks in the Orbal Unit.				
Self Report?	NO			Classification:	Minor

Citation: OpR 1 PERMIT
Description: Failure by the City of Nacogdoches to properly operate units of treatment.
Self Report? NO Classification: Moderate

Citation: IEL&MR 1 PERMIT
Description: Failure by the City of Nacogdoches to comply with permitted effluent limitations.
Self Report? NO Classification: Minor

Citation: CA Provision 3 ORDER
Description: Failure by the City of Nacogdoches to submit a 90-day progress report regarding efforts taken to comply with the Sanitary Sewer Overflow Compliance Agreement effective 12/19/2007 (Enforcement Case No. 34807).

Date 07/31/2008 (713176) CN600134076
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 08/31/2008 (713177) CN600134076
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 09/30/2008 (729314) CN600134076
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 (729316) CN600134076
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2009 (927058) CN600134076
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 06/17/2010 (825301) CN600134076
Self Report? NO Classification: Minor
Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.12(l)
Description: Failure by the City of Nacogdoches to require significant industrial users (SIUs) to submit the correct certification statement found in 40 CFR §403.6(a)(2)(ii) with their self monitoring reports.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 315, SubChapter A 315.1
Description: Failure by the City of Nacogdoches to require the Parker Hannifin facility to use appropriate analytical methods for analyzing wastewater to determine compliance with the applicable pretreatment standard for toluene and methyl ethyl ketone.

Date 08/20/2010 (780986) CN600134076
Self Report? NO Classification: Minor

Citation: OpR 1 PERMIT
Description: Failure by the City to properly operate and maintain units of treatment and collection. c4, minor 3d

Self Report? NO Classification: Minor

Citation: OpR 1 PERMIT
Description: Failure by the City to properly operate and maintain units of treatment and collection. c4, minor 3D

Self Report? NO Classification: Minor

Citation:	OpR 1 PERMIT		
Description:	Failure by the City to properly operate and maintain units of treatment and collection. C4, Minor 3D		
Self Report?	NO	Classification:	Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the City to properly operate and maintain units of treatment and collection. B15, minor 3D		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	Failure by the City to prevent an unauthorized discharge. B14, Moderate 2D		
Self Report?	NO	Classification:	Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the City to properly operate and maintain units of treatment and collection. c4, moderate 3D		
Self Report?	NO	Classification:	Minor
Citation:	OpR 4 PERMIT		
Description:	Failure by the City to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.		
Self Report?	NO	Classification:	Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the City to properly operate and maintain units of treatment and collection. c4, moderate 3D		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1)		
Description:	Failure by the City to prevent an unauthorized discharge. B14, Moderate 2D		
Date	11/30/2010 (909766)	CN600134076	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF NACOGDOCHES
RN101611283**

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

**AGREED ORDER
DOCKET NO. 2011-1116-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 Nacogdoches ("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 plant located on the east side of Bayou La Nana between Farm-to-Market Road ("FM") 1275 and FM 2863 in Nacogdoches County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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 April 19, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Three Hundred Dollars (\$8,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Six Hundred Forty Dollars

(\$6,640) of the administrative penalty and One Thousand Six Hundred Sixty Dollars (\$1,660) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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

1. Failed to submit a pretreatment program modification by September 23, 2010 containing all required Streamlining Rule provisions, in violation of 30 TEX. ADMIN. CODE § 315.1, 40 CODE OF FEDERAL REGULATIONS ("CFR") §§ 403.5(c)(1) and 403.8(f)(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements No. 1, as documented during a record review conducted on February 16, 2011.
2. Failed to submit written notification that a technical redevelopment of the current technically based local limits ("TBLLs"), draft legal authority which incorporates such revisions, and any additional modifications of the pretreatment program including the enforcement response plan, and standard operating procedures and all required Streamlining Rule provisions will be submitted by September 23, 2010, in violation of 30 TEX. ADMIN. CODE § 315.1, 40 CFR § 403.5(c)(1) and TPDES Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements No. 2(2), as documented during a record review conducted on February 16, 2011.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Nacogdoches, Docket No. 2011-1116-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 45 days after the effective date of this Agreed Order, submit a pretreatment program modification containing all required Streamlining Rule provisions, along with the technical redevelopment of the current TBLLs, draft legal authority which incorporates such revisions, and any additional modifications of the pretreatment program including the enforcement response plan, and standard operating procedures, in accordance with TPDES Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements; and

Submit the requested responses to:

Storm Water and Pretreatment Team, MC 148
Water Quality Division
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning TPDES Permit No. WQ0010342004, Contributing Industries and Pretreatment Requirements, within 30 days after the date of such requests or by any other deadline specified in writing; and
- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance

with Ordering Provision No. 2.a. 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 fines 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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

Robert H. H. H. H.
For the Executive Director

12/2/11
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.

Lila Fuller
Signature

9/22/11
Date

Lila Fuller
Name (Printed or typed)
Authorized Representative of
City of Nacogdoches

Acting City Manager
Title

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