

Executive Summary – Enforcement Matter – Case No. 42620

City of Refugio

RN103913935

Docket No. 2011-1768-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Refugio Wastewater Treatment Facility, approximately 1.0 mile east of United States Highway 77 and 0.75 mile south of Farm-To-Market Road 774 in Refugio, Refugio 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: December 16, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,190

Amount Deferred for Expedited Settlement: \$1,638

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,552

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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City of Refugio
RN103913935
Docket No. 2011-1768-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: August 18, 2011
Date(s) of NOE(s): September 9, 2011

Violation Information

1. Failed to comply with permitted effluent limitations for total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010255001, Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to submit complete effluent monitoring results at the intervals specified in the permit. Specifically, data for *Escherichia coli* ("*E. coli*"), daily average and daily maximum colony forming units per 100 milliliters, were not included on the discharge monitoring report ("DMR") for the monitoring period ending November 30, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125 (17) and 319.4, and TPDES Permit No. WQ0010255001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On September 14, 2011, the Respondent submitted the DMR with data for *E. coli* daily average and daily maximum colonies forming units per 100 milliliters, for the monitoring period ending November 30, 2010.

Technical Requirements:

The order will require the Respondent to, within 90 days, submit written certification demonstrating compliance with permitted effluent limits.

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: Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

Executive Summary – Enforcement Matter – Case No. 42620
City of Refugio
RN103913935
Docket No. 2011-1768-MWD-E

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Ray Jaso, Mayor, City of Refugio, P.O. Box 1020,
Refugio, Texas 78377-1020

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Sep-2011	Screening	26-Sep-2011	EPA Due	
	PCW	27-Sep-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Refugio
Reg. Ent. Ref. No.	RN103913935
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42620	No. of Violations	2
Docket No.	2011-1768-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jill Russell
		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	\$4,100
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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.

Compliance History	100.0% Enhancement	Subtotals 2, 3, & 7	\$4,100
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Notes: Enhancement for 11 months of self-reported effluent violations, five NOV's with same/similar violations, and one order with a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$10
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$846
Approx. Cost of Compliance	\$10,025

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,190
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$8,190
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,190
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,638
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,552
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Screening Date 26-Sep-2011

Docket No. 2011-1768-MWD-E

PCW

Respondent City of Refugio

Policy Revision 2 (September 2002)

Case ID No. 42620

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103913935

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

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>)	16	80%
	Other written NOVs	0	0%
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) 100%

>> 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 11 months of self-reported effluent violations, five NOVs with same/similar violations, and one order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 100%

Screening Date 26-Sep-2011

Docket No. 2011-1768-MWD-E

PCW

Respondent City of Refugio

Policy Revision 2 (September 2002)

Case ID No. 42620

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103913935

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010255001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on August 18, 2011, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 Number of violation days 150

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

Violation Base Penalty \$4,000

Four 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 \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$845

Violation Final Penalty Total \$8,000

This violation Final Assessed Penalty (adjusted for limits) \$8,000

Economic Benefit Worksheet

Respondent City of Refugio
Case ID No. 42620
Reg. Ent. Reference No. RN103913935
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
<i>No commas or \$</i>							

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	30-Sep-2010	8-Jun-2012	1.69	\$845	n/a	\$845

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and take necessary corrective actions to maintain compliance with permitted effluent limits. Date required is the first month of noncompliance. The 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

\$845

Screening Date 26-Sep-2011
Respondent City of Refugio
Case ID No. 42620
Reg. Ent. Reference No. RN103913935
Media [Statute] Water Quality
Enf. Coordinator Jill Russell

Docket No. 2011-1768-MWD-E

PCW

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

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125 (17) and 319.4; and TPDES Permit No. WQ0010255001, Monitoring and Reporting Requirements No. 1
Violation Description Failed to submit complete effluent monitoring results at the intervals specified in the permit, as documented in a record review conducted on August 18, 2011. Specifically, data for Escherichia coli, daily average and daily maximum colony forming units per 100 milliliters, were not included on the discharge monitoring report ("DMR") for the monitoring period ending November 30, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				X	1%
70% or more of the rule requirement was met.					

Adjustment \$9,900

\$100

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 \$100

One single event is recommended.

Good Faith Efforts to Comply

Reduction \$10

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

Notes: The Respondent submitted a revised DMR with the missing data related to this violation on September 14, 2011, after the September 9, 2011 Notice of Enforcement.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$190

This violation Final Assessed Penalty (adjusted for limits) \$190

Economic Benefit Worksheet

Respondent City of Refugio
Case ID No. 42620
Reg. Ent. Reference No. RN103913935
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)	\$25	20-Dec-2010	14-Sep-2011	0.73	\$1	n/a	\$1

Notes for DELAYED costs

Estimated costs to submit a complete DMR. Date required is the date that the DMR was due. The final date is the date the revised DMR was submitted.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$1

Effluent Violations Table			
City of Refugio			
RN103913935; Docket 2011-1768-MWD-E			
TPDES Permit No. WQ0010255001			
	Total Suspended Solids DAV Concentration	Total Suspended Solids DMAX Concentration	Total Suspended Solids DAV Loading
Month/Year	Limit =15 mg/L	Limit =40 mg/L	Limit =72 lb/d
September 2010	16.85	c	c
January 2011	18.60	c	c
February 2011	27.50	c	74
May 2011	c	42.6	c
June 2011	29.57	58.0	88

DAV = Daily Average, DMAX = Daily Maximum
mg/L = milligrams per liter
lb/d = pounds per day
c = compliant

Compliance History

Customer/Respondent/Owner-Operator: CN600624225 City of Refugio Classification: AVERAGE Rating: 2.56
Regulated Entity: RN103913935 CITY OF REFUGIO Classification: AVERAGE Site Rating: 1.21
ID Number(s): WASTEWATER LICENSING LICENSE WQ0010255001
WASTEWATER PERMIT WQ0010255001
WASTEWATER EPA ID TX0032492
Location: Approximately 1.0 mile east of United States Highway 77 and 0.75 mile south of Farm-to-Market Road 774 in Refugio County, Texas
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: September 23, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 23, 2006 to September 23, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jill Russell Phone: (512) 239 - 4564

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: 9/1/2011 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: 03/07/2011 ADMINORDER 2010-1391-MWD-E
Classification: Minor
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125
Rqmt Prov: Permit Conditions (2) (g) PERMIT

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

- 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 04/18/2007 (554604)
- 2 06/20/2007 (563676)
- 3 09/19/2007 (594125)
- 4 05/08/2008 (650610)
- 5 08/26/2009 (746707)
- 6 08/26/2009 (761155)
- 7 05/20/2010 (794992)

8 09/09/2011 (949527)
9 02/23/2007 (957370)
10 02/27/2008 (957371)
11 03/03/2009 (957372)
12 03/01/2010 (957373)
13 02/22/2011 (957374)
14 03/28/2007 (957375)
15 03/24/2009 (957376)
16 03/31/2010 (957377)
17 03/24/2011 (957378)
18 04/02/2008 (957379)
19 04/23/2007 (957380)
20 04/30/2008 (957381)
21 04/23/2009 (957382)
22 04/19/2010 (957383)
23 04/20/2011 (957384)
24 05/30/2007 (957385)
25 06/02/2008 (957386)
26 05/15/2009 (957387)
27 05/21/2010 (957388)
28 05/23/2011 (957389)
29 06/25/2007 (957390)
30 07/02/2008 (957391)
31 07/02/2009 (957392)
32 06/23/2010 (957393)
33 06/27/2011 (957394)
34 08/01/2007 (957395)
35 08/01/2008 (957396)
36 07/23/2009 (957397)
37 10/07/2010 (957398)
38 07/25/2011 (957399)

39 08/31/2007 (957401)
40 10/28/2008 (957402)
41 08/31/2009 (957403)
42 08/25/2010 (957404)
43 09/28/2007 (957406)
44 10/01/2008 (957407)
45 10/05/2009 (957408)
46 09/20/2010 (957410)
47 10/23/2006 (957411)
48 11/05/2007 (957412)
49 10/31/2008 (957413)
50 11/04/2009 (957414)
51 10/21/2010 (957415)
52 11/22/2006 (957416)
53 11/30/2007 (957417)
54 12/01/2008 (957418)
55 12/03/2009 (957419)
56 11/17/2010 (957420)
57 12/21/2006 (957421)
58 12/27/2007 (957422)
59 12/19/2008 (957423)
60 01/04/2010 (957424)
61 12/22/2010 (957425)
62 01/31/2007 (957426)
63 01/28/2008 (957427)
64 02/02/2009 (957428)
65 02/01/2010 (957429)
66 01/24/2011 (957430)

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

Date: 12/31/2006 (957426) CN600624225
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: 04/18/2007 (554604) CN600624225
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Sludge Prov. Sect. II. F. OP
Description: Failure to report annually to the TCEQ Regional Office (MC Region 14) and the Water Quality Compliance Monitoring Team of the Enforcement Division, by September 1 of each year the following information: items 1-17 on pages 19-20.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3
Operational Requirements 1. (page 9) OP

Description: Failure to at all times ensure that the collection system and lift stations are properly operated and maintained.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements 1. (page 9) OP

Description: Failure to at all times ensure that the aeration basin is properly operated and maintained.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring and Reporting 3.a. (page 4) OP

Description: Failure to ensure monitoring samples and measurements are taken at times and in a manner so as to be representative of the monitored activity.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.6
30 TAC Chapter 319, SubChapter A 319.9(c)

Description: Failure to assure the quality of all measurements through the use of blanks, standards, duplicate analyses, and spikes utilizing at a minimum, the quality assurance requirements specified in Table 3 in chapter 319.9 of this title (relating to Self-Monitoring and Quality Assurance Schedules) for dissolved oxygen.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements 6. (page 24) OP

Description: Failure to submit the results of the soil sample analyses with a map showing the location of the soil samples to the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division and the Region Office (MC Region 14) during September of each year.

Date: 11/30/2007 (957422) CN600624225
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 (957379) CN600624225
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 (957381) CN600624225
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 05/08/2008 (650610) CN600624225
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations No. 1, Pg. 2 PERMIT

Description: Failure to comply with the effluent limitations as specified in the permit.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements No. 6, Pg. 24 PERMIT

Description: Failure to monitor the soil-sludge mixture as required in the permit for the application of Class "B" sludge to 10 acres of the permittee's property located adjacent to the wastewater treatment plant site.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations No. 4, Pg. 2 PERMIT

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

Date: 12/31/2008 (957428) CN600624225
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: 08/26/2009 (761155) CN600624225
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements No. 6, Pg. 24 PERMIT

Description: Failure to monitor the soil-sludge mixture as required in the permit for the application of Class "B" sludge to 10 acres of the permittee's property located adjacent to the wastewater treatment plant site.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements; No. 1, Pg. 9 PERMIT

Description: Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations; No. 1, Pg. 2 PERMIT

Description: Failure to comply with the single grab effluent limitation for Total Suspended Solids (TSS) as specified in the permit.

Date: 09/30/2009 (957414) CN600624225
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: 10/13/2009 (777725) CN600624225
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)
Permit Conditions; No. 2g, Pg. 7 PERMIT

Description: Failure to prevent the discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Operational Requirements; No. 1, Pg. 9 PERMIT

Description: Failure to properly operate and maintain the Heard and Heard lift station located at the intersection of Highway 77 and East Vance Street.

Date: 05/20/2010 (794992) CN600624225

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements No. 6, Pg. 24 PERMIT

Description: Failure to monitor the soil-sludge mixture as required in the permit for the application of Class "B" sludge to 10 acres of the permittee's property located adjacent to the wastewater treatment plant site.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations; No. 1, Pg. 2 PERMIT

Description: Failure to comply with the single grab effluent limitation for Total Suspended Solids (TSS) as specified in the permit.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations; No. 1, Pg. 2 PERMIT

Description: Failure to comply with the effluent limitations (TSS and Ammonia Nitrogen) as specified in the permit.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Reporting Requirement; No. 7.c., Pg. 6 PERMIT

Description: Failure to report any effluent violation which deviates from the permitted effluent limitation by more than 40% in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(d)
Reporting Requirement; No. 1, Pg. 4 PERMIT

Description: Failure to submit the monthly effluent reports by the 20th day of the following month.

Date: 09/30/2010 (957415) CN600624225

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: 01/31/2011 (957374) CN600624225

Self Report? YES Classification: Moderate

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

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

Date: 02/28/2011 (957378) CN600624225

Self Report? YES Classification: Moderate

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

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

Date: 05/31/2011 (957394) CN600624225

Self Report? YES Classification: Moderate

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

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

Date: 06/30/2011 (957399) CN600624225

Self Report? YES Classification: Moderate

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

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

- F. Environmental audits. N/A
- G. Type of environmental management systems (EMSs). N/A
- H. Voluntary on-site compliance assessment dates. N/A
- I. Participation in a voluntary pollution reduction program. N/A
- J. Early compliance. N/A
- K. Sites Outside of Texas N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF REFUGIO
RN103913935**

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

**AGREED ORDER
DOCKET NO. 2011-1768-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 Refugio ("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 approximately one mile east of United States Highway 77 and 0.75 mile south of Farm-to-Market Road 774 in Refugio County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 14, 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 One Hundred Ninety Dollars (\$8,190) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Five Hundred Fifty-Two

Dollars (\$6,552) of the administrative penalty and One Thousand Six Hundred Thirty-Eight Dollars (\$1,638) 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 recognizes that on September 14, 2011, the Respondent submitted the discharge monitoring report ("DMR") with data for *Escherichia coli* ("*E. coli*") daily average and daily maximum colony forming units per 100 milliliters, for the monitoring period ending November 30, 2010.
10. 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.
11. 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.
12. 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 comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010255001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 18, 2011, and shown in the following table:

Effluent Violations Table			
	Total Suspended Solids DAV Concentration	Total Suspended Solids DMAX Concentration	Total Suspended Solids DAV Loading
Month/Year	Limit =15 mg/L	Limit =40 mg/L	Limit =72 lb/d
September 2010	16.85	c	c
January 2011	18.60	c	c
February 2011	27.50	c	74
May 2011	c	42.6	c
June 2011	29.57	58.0	88

DAV = Daily Average, DMAX = Daily Maximum
mg/L = milligrams per liter
lb/d = pounds per day
c = compliant

- Failed to submit complete effluent monitoring results at the intervals specified in the permit in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125 (17) and 319.4, and TPDES Permit No. WQ0010255001, Monitoring and Reporting Requirements No. 1, as documented in a record review conducted on August 18, 2011. Specifically, data for *E. coli*, daily average and daily maximum colony forming units per 100 milliliters, were not included on the DMR for the monitoring period ending November 30, 2010.

III. DENIALS

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

IV. ORDERING PROVISIONS

- 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 Refugio, Docket No. 2011-1768-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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010255001, 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. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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



For the Executive Director

11/17/12

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.



Signature

11-7-11

Date

Ray Jaso

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

Mayor

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.