

Executive Summary – Enforcement Matter – Case No. 41985

City of Edgewood

RN101916302

Docket No. 2011-1097-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Edgewood, located approximately 6,000 feet north of the intersection of Farm-to-Market Road 859 and United States Highway 80 and 2,200 feet east of Farm-to-Market Road 859, Van Zandt County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 8, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,712

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$6,712

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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City of Edgewood
RN101916302
Docket No. 2011-1097-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: June 9, 2011
Date(s) of NOE(s): June 17, 2011

Violation Information

1. Failed to comply with permitted effluent limits for 5-day carbonaceous biochemical oxygen demand, total suspended solids, and ammonia nitrogen [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0014648001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014648001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

- a. By April 30, 2011, returned to compliance with permitted effluent limitations by repairing the clarifier sludge rakes, replacing the bearings in the clarifier and by re-seeding the Facility with bacteria;
- b. On July 20, 2011, submitted the annual sludge report for the monitoring period ending July 31, 2010; and
- c. By July 20, 2011, conducted employee training and implemented procedures to ensure that sludge reports will be submitted timely.

Technical Requirements:

N/A

Litigation Information

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

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Docket No. 2011-1097-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5886; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412.

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Charles Prater, Mayor, City of Edgewood, P.O. Box 377,
Edgewood, Texas 75117

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Jun-2011	Screening	30-Jun-2011	EPA Due	
	PCW	14-Jul-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Edgewood		
Reg. Ent. Ref. No.	RN101916302		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41985	No. of Violations	2
Docket No.	2011-1097-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Cheryl Thompson
		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 32 months of self-reported effluent violations, two NOV's with same/similar violations, one NOV with dissimilar violations and three Agreed Orders with denial of liability.

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
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 30-Jun-2011

Docket No. 2011-1097-MWD-E

PCW

Respondent City of Edgewood

Policy Revision 2 (September 2002)

Case ID No. 41985

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916302

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

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>)	34	170%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	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) 232%

>> 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 32 months of self-reported effluent violations, two NOVs with same/similar violations, one NOV with dissimilar violations and three Agreed Orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 232%

Screening Date 30-Jun-2011
Respondent City of Edgewood
Case ID No. 41985
Reg. Ent. Reference No. RN101916302
Media [Statute] Water Quality
Enf. Coordinator Cheryl Thompson
Violation Number 1

Docket No. 2011-1097-MWD-E

PCW

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

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014648001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on June 9, 2011. See 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

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

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

Notes The Respondent returned to compliance with permitted effluent limits by April 30, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$51

Statutory Limit Test

Violation Final Penalty Total \$3,070

This violation Final Assessed Penalty (adjusted for limits) \$3,070

Economic Benefit Worksheet

Respondent City of Edgewood
Case ID No. 41985
Req. Ent. Reference No. RN101916302
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)	\$6,045	28-Feb-2011	30-Apr-2011	0.17	\$51	n/a	\$51

Notes for DELAYED costs

Actual cost to repair clarifier sludge rakes, replace the bearings in the clarifier and to re-seed the plant with bacteria. Date required is the month the first non-compliant excursion was documented. 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	\$6,045	TOTAL	\$51
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Screening Date 30-Jun-2011

Docket No. 2011-1097-MWD-E

PCW

Respondent City of Edgewood

Policy Revision 2 (September 2002)

Case ID No. 41985

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916302

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014648001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 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%
Less than 30% of the rule requirement was not met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 322

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
Single event	X

Violation Base Penalty \$100

One single event was is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$10

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

Notes The Respondent returned to compliance on July 20, 2011.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$322

This violation Final Assessed Penalty (adjusted for limits) \$322

Economic Benefit Worksheet

Respondent City of Edgewood
Case ID No. 41985
Req. Ent. Reference No. RN101916302
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	\$250	9-Jun-2011	20-Jul-2011	0.11	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	1-Sep-2010	20-Jul-2011	0.88	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to prepare and submit the annual sludge report for the monitoring period ending July 31, 2010, and to update the Facility's operational guidance and to conduct employee training (\$250). Dates required are the date the report was due and the record review date. Final date is the date the sludge report was submitted and the date the Facility updated it's operational guidance and conducted employee training.

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 \$300

TOTAL \$4

EFFLUENT VIOLATION TABLE

CITY OF EDGEWOOD

DOCKET NO. 2011-1097-MWD-E; RN101916302

TPDES PERMIT NO. WQ0014648001; CASE NO. 41985

	February 2011	March 2011
CBOD5 Daily Avg. Conc. 10 mg/L	18.4	11.7
CBOD5 Daily Avg. Loading 17 lbs/day	22.8	c
NH3-N Daily Avg. Conc. 3 mg/L	4.4	7.2
NH3-N Daily Avg. Loading 5 lbs/day	5.4	8.6
TSS Daily Avg. Conc. 15 mg/L	c	21.5
TSS Daily Avg. Loading 25 lbs/day	c	27.9

mg/L = milligrams per liter; CBOD5 = carbonaceous biochemical oxygen demand (5-day)
 lbs/day = pounds per day; TSS = total suspended solids; c= compliant; avg.= average;
 conc. =concentration; NH3-N= ammonia nitrogen

Compliance History

Customer/Respondent/Owner-Operator: CN600738512 City of Edgewood Classification: AVERAGE Rating: 3.05

Regulated Entity: RN101916302 CITY OF EDGEWOOD Classification: AVERAGE Site Rating: 3.17

ID Number(s): WASTEWATER EPA ID TX0023710
WASTEWATER PERMIT WQ0014648001
WASTEWATER EPA ID TX0023710

Location: located approximately 6,000 feet north of the intersection of Farm-to-Market Road 859 and United States Highway 80 and 2,200 feet east of Farm-to-Market Road 859 in Van Zandt County, Texas

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: June 30, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 30, 2006 to June 30, 2011

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

Name: Cheryl Thompson Phone: (817) 588-5886

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 10/04/2007 ADMINORDER 2005-0843-MLM-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter D 305.63(a)

30 TAC Chapter 305, SubChapter F 305.125(2)

Description: Failure to submit a permit renewal application prior to the permit expiration date of March 1, 2002 for TPDES Permit No. 10560-001 and continued to operate .

Effective Date: 11/09/2007 ADMINORDER 2007-0258-MWD-E

Classification: Moderate

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

Rqmt Prov: EFFLUENT LIMITS PERMIT

Description: Failure to comply with permit effluent limits.

Effective Date: 02/20/2011 ADMINORDER 2010-0242-MWD-E

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits for ammonia nitrogen, total suspended solids, and 5-day carbonaceous biochemical oxygen demand, as documented by a TCEQ record review of self-reported data.

- 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	08/18/2006	(521266)
2	09/19/2006	(521267)
3	02/12/2007	(537753)
4	08/17/2007	(572427)
5	12/13/2007	(611957)
6	12/28/2007	(613088)
7	02/22/2007	(620408)
8	03/19/2007	(620409)
9	04/20/2007	(620410)
10	05/24/2007	(620411)
11	06/18/2007	(620412)
12	07/23/2007	(620413)
13	08/20/2007	(620414)
14	10/08/2007	(620415)
15	10/23/2006	(620416)
16	10/19/2007	(620417)
17	06/29/2007	(620418)
18	11/26/2007	(620419)
19	01/05/2007	(620420)
20	12/20/2007	(620421)
21	01/29/2007	(620422)
22	03/05/2008	(636953)
23	03/06/2008	(637200)
24	02/26/2008	(672700)
25	01/22/2008	(672701)
26	07/07/2008	(685215)
27	03/17/2008	(690716)
28	04/24/2008	(690717)
29	05/30/2008	(690718)
30	09/19/2008	(703082)
31	06/16/2008	(711566)
32	07/21/2008	(711567)
33	08/06/2008	(711568)
34	09/17/2008	(711569)
35	10/16/2008	(711570)
36	04/18/2009	(724065)
37	02/26/2009	(726534)
38	11/24/2008	(728079)
39	12/23/2008	(728080)
40	03/31/2009	(738710)
41	07/09/2009	(745501)
42	02/20/2009	(750990)
43	01/12/2009	(750991)
44	03/19/2009	(768913)
45	04/17/2009	(768914)
46	05/21/2009	(768915)

47	02/04/2010	(784689)
48	06/22/2010	(798441)
49	02/16/2010	(806556)
50	06/15/2009	(806557)
51	07/13/2009	(806558)
52	08/24/2009	(806559)
53	09/22/2009	(806560)
54	10/16/2009	(806561)
55	11/13/2009	(806562)
56	12/14/2009	(806563)
57	01/21/2010	(806564)
58	03/15/2010	(831538)
59	04/19/2010	(831539)
60	05/20/2010	(831540)
61	09/07/2010	(843940)
62	06/22/2010	(846472)
63	08/16/2010	(867076)
64	10/07/2010	(874129)
65	09/20/2010	(874130)
66	10/18/2010	(881734)
67	11/15/2010	(888235)
68	12/17/2010	(896491)
69	01/18/2011	(902522)
70	02/18/2011	(909303)
71	03/24/2011	(925453)
72	04/27/2011	(925454)
73	06/17/2011	(932838)

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

Date:	07/31/2006 (521266)	CN600738512	
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:	08/31/2006 (521267)	CN600738512	
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:	09/30/2006 (620416)	CN600738512	
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:	10/31/2006 (620418)	CN600738512	
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:	11/30/2006 (620420)	CN600738512	
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: 12/31/2006 (620422) CN600738512

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 01/31/2007 (620408) CN600738512

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 03/31/2007 (620410) CN600738512

Self Report? YES Classification: Moderate

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

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

Date 04/30/2007 (620411) CN600738512

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 05/31/2007 (620412) CN600738512

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 06/30/2007 (620413) CN600738512

Self Report? YES Classification: Moderate

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

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

Date 07/31/2007 (620414) CN600738512

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 (620415) CN600738512

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 (620417) CN600738512

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 (620419) CN600738512

Self Report? YES Classification: Moderate

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

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

Date 11/30/2007 (620421) CN600738512

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 (672701) CN600738512

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 (672700) CN600738512
 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 02/27/2008 (636953)
 Self Report? NO Classification: Major
 Citation: 2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B)
 OP 2 ORDER
 Description: Failed to comply with the Ordering Provision of Commission Order Docket No. 2007-0258-MWD-E.
 Date 02/29/2008 (690716) CN600738512
 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 (690717) CN600738512
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 04/30/2008 (690718) CN600738512
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 05/31/2008 (711566) CN600738512
 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 06/30/2008 (711567) CN600738512
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 07/31/2008 (711568) CN600738512
 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 09/25/2008 (703082) CN600738512
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: Failure to properly prevent an unauthorized discharge as specified in the Texas Water Code §26.121(a).
 Date 09/30/2008 (711570) CN600738512
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 02/28/2009 (768913) CN600738512
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date 03/31/2009 (768914) CN600738512
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date 04/30/2009 (768915) CN600738512
 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 (806560) CN600738512
 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 10/31/2009 (806562) CN600738512
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 07/01/2010 (798441) CN600738512
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with any permit condition is a violation of the permit and statutes under which it was issued and is grounds for enforcement action. The RE was found to be non-compliant with this rule at the time of the investigation in that no Operating or Maintenance Records were available at the time of the Investigation.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to properly maintain the plant and process.
 Date 02/28/2011 (925453) CN600738512
 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 03/31/2011 (925454) CN600738512
 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 EDGEWOOD
RN101916302**

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

**AGREED ORDER
DOCKET NO. 2011-1097-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the City of Edgewood (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 6,000 feet north of the intersection of Farm-to-Market Road 859 and United States Highway 80 and 2,200 feet east of Farm-to-Market Road 859 in Van Zandt County, Texas (the “Facility”).

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on June 9, 2011, TCEQ staff documented that the Respondent exceeded the permitted effluent limits as shown in the table below:

	February 2011	March 2011
CBOD5 Daily Avg. Conc. 10 mg/L	18.4	11.7
CBOD5 Daily Avg. Loading 17 lbs/day	22.8	c
NH3-N Daily Avg. Conc. 3 mg/L	4.4	7.2
NH3-N Daily Avg. Loading 5 lbs/day	5.4	8.6
TSS Daily Avg. Conc. 15 mg/L	c	21.5
TSS Daily Avg. Loading 25 lbs/day	c	27.9

mg/L = milligrams per liter; CBOD5 = carbonaceous biochemical oxygen demand (5-day); lbs/day = pounds per day; TSS = total suspended solids; c= compliant; Avg. = average; conc. = concentration; NH3-N = ammonia nitrogen

4. During a record review on June 9, 2011, TCEQ staff documented that the Respondent did not submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010.
5. The Respondent received notice of the violations on June 22, 2011.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. By April 30, 2011, returned to compliance with permitted effluent limitations by repairing the clarifier sludge rakes, replacing the bearings in the clarifier and by re-seeding the Facility with bacteria;
- b. On July 20, 2011, submitted the annual sludge report for the monitoring period ending July 31, 2010; and
- c. By July 20, 2011, conducted employee training and implemented procedures to ensure that sludge reports will be submitted timely.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014648001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014648001, Sludge Provisions.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Six Thousand Seven Hundred Twelve Dollars (\$6,712) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay the administrative penalty. Therefore, the penalty is deferred contingent upon 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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Respondent to pay all or part of the deferred penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand Seven Hundred Twelve Dollars (\$6,712) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Edgewood, Docket No. 2011-1097-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.
6. 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.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

7/27/12
Date

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

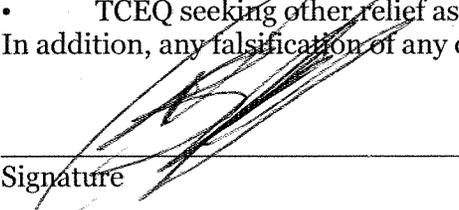
I understand that by entering into this Agreed Order, the City of Edgewood waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature


Name (Printed or typed)

Authorized Representative of
City of Edgewood

Date

4-16-12

Title

Mayor

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