

Executive Summary – Enforcement Matter – Case No. 43160

City of Naples

RN101918779

Docket No. 2012-0048-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 Naples WWTP, located approximately 0.5 mile southeast of the intersection of State Highway 77 and State Highway 338, Morris 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 2, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,730

Amount Deferred for Expedited Settlement: \$1,746

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,746

Total Due to General Revenue: \$5,238

Payment Plan: 3 payments of \$1,746 each

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 Naples
RN101918779
Docket No. 2012-0048-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 7, 2011
Date(s) of NOE(s): November 29, 2011

Violation Information

1. Failed to comply with the permitted effluent limitations for dissolved oxygen, pH, total suspended solids, 5-day biochemical oxygen demand ("BOD₅"), and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010230001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].

2. Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending February 28, 2011, by the 20th day of the following month. Specifically, the DMR was submitted but did not include results for BOD₅ single grab [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0010230001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By December 1, 2011, Respondent submitted the complete DMR for the monitoring period ending February 28, 2011.

Technical Requirements:

The Order will require Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010230001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

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

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City of Naples

RN101918779

Docket No. 2012-0048-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division,
Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Danny Mills, Mayor, City of Naples, P.O. Box 340,
Naples, Texas 75568

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Dec-2011	Screening	19-Dec-2011	EPA Due	
	PCW	17-Jul-2012				

RESPONDENT / FACILITY INFORMATION	
Respondent	City of Naples
Reg. Ent. Ref. No.	RN101918779
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	43160	No. of Violations	3
Docket No.	2012-0048-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,600
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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	90.0% Enhancement	Subtotals 2, 3, & 7	\$4,140
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Notes: Enhancement for 18 months of self-reported effluent violations.

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: \$5,276
 Approx. Cost of Compliance: \$50,050
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,730
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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	\$8,730
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,730
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,746
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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	\$6,984
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Screening Date 19-Dec-2011

Docket No. 2012-0048-MWD-E

PCW

Respondent City of Naples

Policy Revision 2 (September 2002)

Case ID No. 43160

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918779

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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>)	18	90%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 90%

>> 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 18 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 90%

Screening Date 19-Dec-2011
Respondent City of Naples
Case ID No. 43160
Reg. Ent. Reference No. RN101918779
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves

Docket No. 2012-0048-MWD-E

PCW

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

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), Texas
 Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010230001,
 Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6

Violation Description Failed to comply with the permitted effluent limitations, as documented during a
 record review conducted on November 7, 2011, and shown in the attached
 violation table.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

One monthly event is recommended for the month of July 2011.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes The Respondent does not meet the good faith criteria for
 this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Naples
Case ID No. 43160
Reg. Ent. Reference No. RN101918779
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50,000	30-Apr-2011	31-Oct-2012	1.51	\$251	\$5,023	\$5,274
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an evaluation of the wastewater treatment system to determine the cause of noncompliance. Date required is the initial month of noncompliance. 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

\$50,000

TOTAL

\$5,274

Screening Date 19-Dec-2011

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PCW

Respondent City of Naples

Policy Revision 2 (September 2002)

Case ID No. 43160

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918779

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010230001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review conducted on November 7, 2011, and shown in the attached violation 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 five-day biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, dissolved oxygen, and pH 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 2 Number of violation days 153

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

Violation Base Penalty \$2,000

Two quarterly events are recommended for the quarters containing April, May, June, and August 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$3,800

This violation Final Assessed Penalty (adjusted for limits) \$3,800

Economic Benefit Worksheet

Respondent City of Naples
Case ID No. 43160
Reg. Ent. Reference No. RN101918779
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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

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

\$0

TOTAL

\$0

Screening Date 19-Dec-2011

Docket No. 2012-0048-MWD-E

PCW

Respondent City of Naples

Policy Revision 2 (September 2002)

Case ID No. 43160

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918779

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0010230001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending February 28, 2011, by the 20th day of the following month, as documented during a record review conducted on November 7, 2011. Specifically, the DMR was submitted but did not include results for five-day biochemical oxygen demand single grab.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
				X	1%

Matrix Notes

70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 28

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

Violation Base Penalty \$100

One monthly event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes The Respondent achieved compliance by December 1, 2011.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$180

This violation Final Assessed Penalty (adjusted for limits) \$180

Economic Benefit Worksheet

Respondent City of Naples
Case ID No. 43160
Reg. Ent. Reference No. RN101918779
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50	20-Mar-2011	1-Dec-2011	0.70	\$0	\$2	\$2
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to submit the revised DMR for the month of February 2011. Date required is the date the DMR was due. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$2

EFFLUENT VIOLATION TABLE

City of Naples

TPDES Permit No. WQ0010230001

Docket No. 2012-0048-MWD-E

Months	BOD ₅ Daily Avg. Conc.	<i>E. coli</i> Daily Avg.	<i>E. coli</i> Single Grab	DO Monthly Min.	pH Min.	pH Max.	TSS Daily Avg. Conc.
	Limit = 30 mg/L	Limit = 126 CFU/100 mL	Limit = 394 CFU/100 mL	Limit = 4 mg/L	Limit = 6 SU	Limit = 9 SU	Limit = 90 mg/L
April 2011	c	c	c	c	c	9.2	c
May 2011	c	c	c	c	c	9.4	c
June 2011	c	c	c	c	5.6	9.6	111.0
July 2011	35.4	908.5	1,816	2.0	c	9.7	197.0
August 2011	46.2	c	c	1.5	c	9.9	227.6

BOD₅ = five-day biochemical oxygen demand
E. coli = *Escherichia coli*
 DO = dissolved oxygen
 TSS = total suspended solids
 Avg. = Average
 Conc. = Concentration

Min. = Minimum
 Max. = Maximum
 mg/L = milligrams per liter
 CFU/100 mL = colony forming units per 100 milliliters
 SU = standard units
 c = compliant

Compliance History

Customer/Respondent/Owner-Operator: CN600695183 City of Naples Classification: AVERAGE Rating: 0.63
Regulated Entity: RN101918779 CITY OF NAPLES Classification: AVERAGE Site Rating: 0.63

ID Number(s): WASTEWATER PERMIT WQ0010230001
WASTEWATER EPA ID TX0024457
WASTEWATER LICENSING LICENSE WQ0010230001

Location: APPROX. 0.5 M SE OF THE INTX
OF STATE HWY 77 AND STATE
HWY 338 IN MORRIS CO, TX

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: December 19, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 19, 2006 to December 19, 2011

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

Name: Jennifer Graves Phone: (956) 430-6023

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.
N/A
- 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	12/27/2006	(546048)
2	05/16/2007	(560306)
3	02/23/2007	(578008)
4	03/23/2007	(578009)
5	04/20/2007	(578010)
6	05/23/2007	(578011)
7	06/20/2007	(578012)
8	01/22/2007	(578013)
9	07/18/2007	(602354)
10	09/04/2007	(602355)
11	09/21/2007	(602356)
12	10/22/2007	(620546)
13	12/03/2007	(620547)
14	05/23/2008	(669892)
15	02/19/2008	(672803)
16	01/02/2008	(672804)
17	01/24/2008	(672805)
18	03/21/2008	(690836)
19	04/24/2008	(690837)
20	06/23/2008	(711712)

21 08/14/2008 (711713)
 22 08/25/2008 (711714)
 23 09/22/2008 (711715)
 24 02/20/2009 (726650)
 25 10/27/2008 (728190)
 26 11/17/2008 (728191)
 27 12/22/2008 (728192)
 28 03/19/2009 (737665)
 29 02/20/2009 (751147)
 30 01/23/2009 (751148)
 31 03/13/2009 (769000)
 32 04/13/2009 (769001)
 33 05/15/2009 (769002)
 34 04/30/2010 (800056)
 35 02/16/2010 (806871)
 36 06/15/2009 (806872)
 37 07/24/2009 (806873)
 38 09/08/2009 (806874)
 39 09/21/2009 (806875)
 40 10/19/2009 (806876)
 41 11/16/2009 (806877)
 42 12/17/2009 (806878)
 43 01/20/2010 (806879)
 44 03/15/2010 (831651)
 45 05/21/2010 (831652)
 46 06/14/2010 (846506)
 47 07/21/2010 (867126)
 48 08/26/2010 (867127)
 49 10/04/2010 (874179)
 50 11/30/2010 (879282)
 51 10/18/2010 (881777)
 52 11/15/2010 (888270)
 53 03/18/2011 (895620)
 54 12/22/2010 (896543)
 55 02/28/2011 (925635)
 56 03/14/2011 (925636)
 57 04/18/2011 (925637)
 58 01/14/2010 (925638)
 59 05/20/2011 (938298)
 60 06/23/2011 (945666)
 61 07/21/2011 (952913)
 62 09/02/2010 (959572)
 63 11/30/2011 (965012)
 64 09/21/2011 (965613)
 65 10/24/2011 (971650)

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

Date: 04/30/2007 (578011) CN600695183
 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: 05/31/2007 (578012) CN600695183
 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: 05/31/2008 (711712) CN600695183
 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 (711713) CN600695183
 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 (711714) CN600695183
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: 05/31/2009 (806872) CN600695183
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: 06/30/2009 (806873) CN600695183
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 (806875) CN600695183
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2010 (831652) CN600695183
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2010 (846506) CN600695183
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: 06/30/2010 (867126) CN600695183
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: 07/31/2010 (867127) CN600695183
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: 04/30/2011 (938298) CN600695183
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 (945666) CN600695183
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 (952913) CN600695183
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: 07/31/2011 (959572) CN600695183
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: 08/31/2011 (965613) CN600695183
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: 09/30/2011 (971650) CN600695183
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 NAPLES
RN101918779**

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

AGREED ORDER DOCKET NO. 2012-0048-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 Naples ("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 0.5 mile southeast of the intersection of State Highway 77 and State Highway 338 in Morris 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 December 4, 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 Seven Hundred Thirty Dollars (\$8,730) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Seven Hundred

Forty-Six Dollars (\$1,746) of the administrative penalty and One Thousand Seven Hundred Forty-Six Dollars (\$1,746) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Two Hundred Thirty-Eight Dollars (\$5,238) of the administrative penalty shall be payable in three monthly payments of One Thousand Seven Hundred Forty-Six Dollars (\$1,746) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 by December 1, 2011, the Respondent submitted the complete discharge monitoring report ("DMR") for the monitoring period ending February 28, 2011.
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 the 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. WQ0010230001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, as documented during a record review conducted on November 7, 2011 and shown in the table below:

EFFLUENT VIOLATION TABLE							
Months	BOD ₅ Daily Avg. Conc.	<i>E. coli</i> Daily Avg.	<i>E. coli</i> Single Grab	DO Monthly Min.	pH Min.	pH Max.	TSS Daily Avg. Conc.
	Limit = 30 mg/L	Limit = 126 CFU/100 mL	Limit = 394 CFU/100 mL	Limit = 4 mg/L	Limit = 6 SU	Limit = 9 SU	Limit = 90 mg/L
April 2011	c	c	c	c	c	9.2	c
May 2011	c	c	c	c	c	9.4	c
June 2011	c	c	c	c	5.6	9.6	111.0
July 2011	35.4	908.5	1,816	2.0	c	9.7	197.0
August 2011	46.2	c	c	1.5	c	9.9	227.6
BOD ₅ = five-day biochemical oxygen demand <i>E. coli</i> = <i>Escherichia coli</i> DO = dissolved oxygen TSS = total suspended solids Avg. = Average Conc. = Concentration				Min. = Minimum Max. = Maximum mg/L = milligrams per liter CFU/100 mL = colony forming units per 100 milliliters SU = standard units c = compliant			

- Failed to submit a complete DMR for the monitoring period ending February 28, 2011, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0010230001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on November 7, 2011. Specifically, the DMR was submitted but did not include results for BOD₅ single grab.

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 Naples, Docket No. 2012-0048-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 effluent limits of TPDES Permit No. WQ0010230001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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

Paul Davis Jr
For the Executive Director

11/18/13
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.

Danny Mills
Signature

9-5-12
Date

DANNY MILLS
Name (Printed or typed)
Authorized Representative of
City of Naples

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.