

Executive Summary – Enforcement Matter – Case No. 41888

City of Big Spring

RN101389492 and RN101721249

Docket No. 2011-1007-MLM-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:

MLM – PWS, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Big Spring, 1601 Virginia Avenue, Big Spring, Howard County

City of Big Spring wastewater treatment plant, located on the north side of Eleventh Street, approximately 1,000 feet east of the intersection of Farm-to-Market Road 700 and Eleventh Street, Big Spring, Howard County

Type of Operation:

Public water supply and a domestic 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: September 21, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,015

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$13,015

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. - Abandoned Tire Clean-Up

Compliance History Classifications:

RN101389492: Person/CN - Average
Site/RN - N/A

RN101721249: Person/CN – Average
Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41888

**City of Big Spring
RN101389492 and RN101721249
Docket No. 2011-1007-MLM-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 1, 2011, July 5, 2011, and August 15, 2011

Date(s) of NOE(s): July 8, 2011 and August 18, 2011

Violation Information

1. Failed to comply with permitted effluent limits ammonia nitrogen, total chlorine, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010069003, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].
2. Failed to comply with the Maximum Contaminant Level (“MCL”) for total coliform for the months of May 2011 and August 2011 [30 TEX. ADMIN. CODE § 290.109(f)(3)].
3. Failed to achieve the turbidity levels of combined filter effluent that is less than 0.3 nephelometric turbidity unit (“NTU”) in at least 95% of samples tested each month, and less than 5.0 NTU in combined filter effluent [30 TEX. ADMIN. CODE § 290.111(e)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
4. Failed to comply with the MCL of 0.080 milligrams per liter for trihalomethanes (“TTHM”), based on the running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent cleaned out the sulfur injectors and purchased space heaters to prevent freezing of the wastewater treatment plant, and returned to compliance with permitted effluent limits by March 31, 2011.

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;

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City of Big Spring
RN101389492 and RN101721249
Docket No. 2011-1007-MLM-E

- b. Within 30 days, begin maintaining the turbidity level of combined filter effluent so that at least 95% of the samples tested each month is 0.3 NTU or less;
- c. Within 45 days, certify compliance with Ordering Provision 2.a.;
- d. Within 195 days, certify compliance with Ordering Provision 2.b.;
- e. Within 365 days, return to compliance with the running annual average MCL for TTHM; and
- f. Within 380 days, submit written certification demonstrating compliance.

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: Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: The Honorable Tommy Duncan, Mayor, City of Big Spring, 310 Nolan Street, Big Spring, Texas 79720
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-1007-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Big Spring

Payable Penalty Amount: Thirteen Thousand Fifteen Dollars (\$13,015)

SEP Amount: Thirteen Thousand Fifteen Dollars (\$13,015)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up

Location of SEP: Howard County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Recipient and TCEQ. The Third-Party Recipient shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

City of Big Spring
Agreed Order – Attachment A

Respondent certifies that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient named above and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Jul-2011	Screening	20-Jul-2011	EPA Due	31-Aug-2011
	PCW	20-Jul-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Big Spring				
Reg. Ent. Ref. No.	RN101389492				
Facility/Site Region	7-Midland	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	41888	No. of Violations	3
Docket No.	2011-1007-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Water Quality	Enf. Coordinator	Jeremy Escobar
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

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 seven NOV's with same/similar violations and one NOV with dissimilar violations.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 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 20-Jul-2011

Docket No. 2011-1007-MLM-E

PCW

Respondent City of Big Spring

Policy Revision 2 (September 2007)

Case ID No. 41888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101389492

Media [Statute] Public Water Supply

Enf. Coordinator Jeremy Escobar

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>)	7	35%
	Other written NOVs	1	2%
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%
<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) 37%

>> Repeat Violator (Subtotal 3)

N/A

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 seven NOVs with same/similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 20-Jul-2011

Docket No. 2011-1007-MLM-E

PCW

Respondent City of Big Spring

Policy Revision 2 (September 2002)

Case ID No. 41888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101389492

Media [Statute] Public Water Supply

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(3)

Violation Description Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform for the months of May 2011 and August 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (50%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes The presence of coliform bacteria is an indication that the water is contaminated with significant amounts of contaminants that do not exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 2 Number of violation days 62

Table for frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$1,000

Two monthly events are recommended for the months in which an exceedance occurred.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$213

Violation Final Penalty Total \$1,370

This violation Final Assessed Penalty (adjusted for limits) \$1,370

Economic Benefit Worksheet

Respondent City of Big Spring
Case ID No. 41888
Req. Ent. Reference No. RN101389492
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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

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)	\$200	1-May-2011	31-Aug-2011	1.25	\$13	\$200	\$213

Notes for AVOIDED costs

The avoided costs include the estimated amount for additional oversight to properly treat the water to prevent the presence of coliform, calculated for the months in which the exceedances occurred.

Approx. Cost of Compliance

\$200

TOTAL

\$213

Screening Date 20-Jul-2011

Docket No. 2011-1007-MLM-E

PCW

Respondent City of Big Spring

Policy Revision 2 (September 2002)

Case ID No. 41888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101389492

Media [Statute] Public Water Supply

Enf. Coordinator Jeremy Escobar

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(1)(B) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to achieve the turbidity levels of combined filter effluent that is less than 0.3 nephelometric turbidity unit ("NTU") in at least 95% of samples tested each month, and less than 5.0 NTU in combined filter effluent. Specifically, a review of the surface water monthly operating report for the month of April 2011 revealed that 13.3% of the combined filter effluent turbidity readings were above 0.3 NTU. This exceeds the 5.0% limit for the month.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to maintain the required turbidity levels could expose customers of the water supply to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

One monthly event is recommended for the month in which the NTU exceedance occurred.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$347

Violation Final Penalty Total \$685

This violation Final Assessed Penalty (adjusted for limits) \$685

Economic Benefit Worksheet

Respondent City of Big Spring
Case ID No. 41888
Req. Ent. Reference No. RN101389492
Media Public Water Supply
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)	\$5,000	5-Jul-2011	1-Jul-2012	0.99	\$17	\$331	\$347
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 delayed costs include the estimated amount to initiate necessary measures to ensure the turbidity level of combined filter effluent is 0.3 NTU or less in at least 95% of the samples tested each month, calculated from the date of the record review to the estimated 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

\$5,000

TOTAL

\$347

Screening Date 20-Jul-2011

Docket No. 2011-1007-MLM-E

PCW

Respondent City of Big Spring

Policy Revision 2 (September 2002)

Case ID No. 41888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101389492

Media [Statute] Public Water Supply

Enf. Coordinator Jeremy Escobar

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the MCL of 0.080 milligrams per liter ("mg/L") for trihalomethanes ("TTHM"), based on the running annual average. Specifically, the running annual average concentration of TTHM was 0.087 mg/L for the fourth quarter of 2010, 0.088 mg/L for the third quarter of 2010, 0.083 mg/L for the second quarter of 2010, and 0.088 mg/L for the first quarter of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Exceeding the MCL for TTHM exposes customers of the water supply to significant amounts of contaminants that do not exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 1

365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty \$500

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$789

Violation Final Penalty Total \$685

This violation Final Assessed Penalty (adjusted for limits) \$685

Economic Benefit Worksheet

Respondent City of Big Spring
Case ID No. 41888
Reg. Ent. Reference No. RN101389492
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Mar-2010	1-Jul-2012	2.25	\$38	\$752	\$789
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 delayed costs include the estimated amount necessary to implement an alternative method of disinfection, calculated from the first quarter of non-compliance to the estimated 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

\$5,000

TOTAL

\$789



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ				
DATES	Assigned	21-Jun-2011	Screening	21-Jun-2011
	PCW	21-Jun-2011	EPA Due	5-Sep-2011

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Big Spring
Reg. Ent. Ref. No.	RN101721249
Facility/Site Region	7-Midland
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	41888	No. of Violations	2
Docket No.	2011-1007-MLM-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media	Public Water Supply	Enf. Coordinator	Jeremy Escobar
		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

Culpability Enhancement **Subtotal 4**

Notes

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

Notes

PAYABLE PENALTY

Screening Date 21-Jun-2011

Docket No. 2011-1007-MLM-E

PCW

Respondent City of Big Spring

Policy Revision 2 (September 2002)

Case ID No. 41888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101721249

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

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>)	12	60%
	Other written NOVs	1	2%
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) 62%

>> **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 self-reported effluent violations, one NOV with similar violations, and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 21-Jun-2011

Docket No. 2011-1007-MLM-E

PCW

Respondent City of Big Spring

Policy Revision 2 (September 2002)

Case ID No. 41888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101721249

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010069003, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description

Failed to comply with permitted effluent limits, as documented in a record review conducted on June 1, 2011, and shown in the table attached.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen, total chlorine, and total suspended solids to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

59 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended for the quarter containing the months of December 2010 and February 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent returned to compliance by March 31, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$3,425

This violation Final Assessed Penalty (adjusted for limits) \$3,425

Economic Benefit Worksheet

Respondent City of Big Spring
Case ID No. 41888
Reg. Ent. Reference No. RN101721249
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$2,500	31-Dec-2010	31-Mar-2011	0.25	\$31	n/a	\$31

Notes for DELAYED costs

Estimated cost to clean out the sulfur injectors and purchase space heaters to prevent freezing of the wastewater treatment plant. Date required is the first date of non-compliance. The final date is the date the Respondent returned to 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

\$2,500

TOTAL

\$31

Screening Date 21-Jun-2011
Respondent City of Big Spring
Case ID No. 41888
Reg. Ent. Reference No. RN101721249
Media [Statute] Water Quality
Enf. Coordinator Jeremy Escobar
Violation Number 2

Docket No. 2011-1007-MLM-E

PCW

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

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010069003, Effluent Limitations and Monitoring Requirements No. 2

Violation Description Failed to comply with permitted effluent limits, as documented in a record review conducted on June 1, 2011, and shown in the table attached.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		50%
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				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 as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$5,000

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

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes The Respondent returned to compliance by March 31, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$6,850

This violation Final Assessed Penalty (adjusted for limits) \$6,850

Economic Benefit Worksheet

Respondent City of Big Spring
Case ID No. 41888
Reg. Ent. Reference No. RN101721249
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)				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

City of Big Spring
Texas Pollutant Discharge Elimination System Permit No. WQ0010069003
Docket No. 2011-1007-MLM-E; Case No. 41888

EFFLUENT VIOLATION TABLE				
Months	NH3-N Daily Avg. Conc.	NH3-N Daily Max. Conc.	Total Chlorine Inst. Max. Conc.	TSS Daily Max. Conc.
	Limit = 3 mg/L	Limit = 10 mg/L	Limit = .1 mg/L	Limit = 40 mg/L
December 2010	4.2	c	c	43
January 2011	c	c	1.35	c
February 2011	5.7	15.1	.58	c

NH3-N = ammonia nitrogen

c = compliant

Max. = maximum

TSS = Total Suspended Solids

mg/L = milligrams per Liter

Conc. = concentration

Inst. = instantaneous

Avg. = average

Compliance History

Customer/Respondent/Owner-Operator:	CN600668693 City of Big Spring	Classification: AVERAGE	Rating: 7.45
Regulated Entity:	RN101389492 CITY OF BIG SPRING	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1140001
Location:	1601 VIRGINIA AVENUE, BIG SPRING, TX		
TCEQ Region:	REGION 07 - MIDLAND		
Date Compliance History Prepared:	August 30, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 22, 2006 to August 22, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jeremy Escobar	Phone:	825-3422

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.

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.)

		(557074)
1	06/05/2007	
2	05/23/2008	(671560)
3	03/18/2009	(738473)
4	03/31/2010	(797679)
5	07/07/2010	(829025)
6	07/06/2011	(936709)
7	07/06/2011	(936941)
8	04/28/2010	(937069)
9	07/06/2011	(937091)
10	07/06/2011	(937095)
11	07/06/2011	(937100)
12	07/08/2011	(937166)
13	08/08/2011	(945066)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/28/2010 (937069)	CN600668693
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(4)	

Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2010.

Date 05/31/2011 (936709) CN600668693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 05/2011 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Date 06/22/2011 (936941) CN600668693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)
Description: April 2011 - 13.3% of the combined filter effluent turbidity readings were above 0.3 NTU. This exceeds the 5.0% limit for the month.

Date 07/06/2011 (937095) CN600668693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2010.

Date 07/06/2011 (937091) CN600668693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2010.

Date 07/06/2011 (937100) CN600668693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2010.

Date 08/08/2011 (945066) CN600668693
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)
Description: Failure to protect chlorine cylinders from adverse weather conditions.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)
Description: Failure to provide a working flow meter for the recycled decant water.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(A)
Description: Failure to provide vacuum breakers on each hose bib within the plant facility.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)
Description: Failure to provide an air gap or acceptable backflow prevention device on make-up water supply lines on chemical feeders.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)
Description: Failure to provide adequate containment facilities for liquid chemical storage tanks to minimize leaks and spills.

Date 08/12/2011 (949738) CN600668693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 08/2011 - System exceeded a Maximum Contaminant Level (MCL) Violation.

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

Compliance History

Customer/Respondent/Owner-Operator:	CN600668693 City of Big Spring	Classification: AVERAGE	Rating: 7.45
Regulated Entity:	RN101721249 CITY OF BIG SPRING WWTP	Classification: AVERAGE	Site Rating: 0.40
ID Number(s):	WASTEWATER WASTEWATER	EPA ID PERMIT	TX0047023 WQ0010069003
Location:	NORTH SIDE OF 11TH ST, APPROX. 1,000 FT E OF THE INTERSECTION OF FM RD 700 AND 11TH ST, BIG SPRING, TX. 79720		
TCEQ Region:	REGION 07 - MIDLAND		
Date Compliance History Prepared:	July 21, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 21, 2006 to June 21, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jeremy Escobar	Phone:	825-3422

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.
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.)

	(518210)
1	01/18/2007
2	08/28/2006 (522890)
3	09/29/2006 (522891)
4	02/27/2007 (542242)
5	02/26/2007 (580421)
6	03/26/2007 (580422)
7	04/24/2007 (580423)
8	05/21/2007 (580424)
9	06/21/2007 (580425)
10	05/21/2007 (580426)
11	10/30/2006 (580427)
12	11/27/2006 (580428)
13	12/29/2006 (580429)
14	04/05/2007 (580430)
15	03/23/2007 (593258)
16	08/22/2007 (603105)
17	09/21/2007 (603106)
18	10/22/2007 (621560)
19	11/26/2007 (621561)
20	12/27/2007 (621562)
21	03/05/2008 (638023)

22	02/22/2008	(673519)
23	03/24/2008	(673520)
24	01/22/2008	(673521)
25	04/21/2008	(691764)
26	05/19/2008	(691765)
27	06/20/2008	(712732)
28	07/21/2008	(712733)
29	08/25/2008	(712734)
30	09/23/2008	(712735)
31	10/22/2008	(728941)
32	12/01/2008	(728942)
33	12/29/2008	(728943)
34	10/22/2008	(728944)
35	03/06/2009	(736947)
36	02/24/2009	(752079)
37	03/13/2009	(752080)
38	04/23/2009	(769826)
39	10/23/2009	(776886)
40	12/01/2009	(778625)
41	02/26/2010	(793550)
42	03/10/2010	(793849)
43	03/10/2010	(794955)
44	02/19/2010	(808963)
45	05/22/2009	(808964)
46	06/23/2009	(808965)
47	07/22/2009	(808966)
48	08/25/2009	(808967)
49	09/23/2009	(808968)
50	10/22/2009	(808969)
51	11/23/2009	(808970)
52	12/21/2009	(808971)
53	01/21/2010	(808972)
54	03/24/2010	(832435)
55	04/22/2010	(832436)
56	05/24/2010	(845196)
57	06/21/2010	(846751)
58	06/21/2010	(861277)
59	08/23/2010	(867426)
60	09/22/2010	(874449)
61	01/24/2011	(902798)
62	02/22/2011	(909636)
63	05/06/2011	(912483)
64	03/21/2011	(916858)
65	06/09/2011	(923421)
66	04/25/2011	(926551)
67	12/02/2010	(926552)
68	11/22/2010	(926553)
69	12/22/2010	(926554)
70	05/23/2011	(938571)

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

Date: 01/17/2007 (518210) CN600668693
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)
 Description: The latest Annual Sludge Report was due no later than September 1, 2006.

The report was submitted on September 20, 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
Description: During the time interval of October 30, 2005 through October 31, 2006, twenty-two (22) unauthorized discharges (sanitary sewer overflows) have occurred in the system.

Date: 02/28/2007 (580422) CN600668693
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: 03/23/2007 (593258) CN600668693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 04/30/2007 (580424) CN600668693
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: 08/31/2007 (603106) CN600668693
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: 12/31/2009 (808972) CN600668693
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: 01/31/2010 (808963) CN600668693
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: 02/28/2010 (832435) CN600668693
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: 12/31/2010 (902798) CN600668693
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 (909636) CN600668693
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 (916858) CN600668693
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 (926551) CN600668693
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 (938571) CN600668693
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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CITY OF BIG SPRING	§	
RN101389492 & RN101721249	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-1007-MLM-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 Big Spring (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and 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 it has 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 domestic wastewater treatment plant located on the north side of Eleventh Street, approximately 1,000 feet east of the intersection of Farm-to-Market Road 700 and Eleventh Street, and a public water supply located at 1601 Virginia Avenue in Big Spring, Howard County, Texas that has approximately 10,749 service connections and serves at least 25 people per day for at least 60 days per year (the “Facilities”).

2. During a record review on June 1, 2011, TCEQ staff documented effluent permit exceedances as shown in the table below:

EFFLUENT VIOLATION TABLE				
Months	NH₃-N Daily Avg. Conc.	NH₃-N Daily Max. Conc.	Total Chlorine Inst. Max. Conc.	TSS Daily Max. Conc.
	Limit = 3 mg/L	Limit = 10 mg/L	Limit = .1 mg/L	Limit = 40 mg/L
December 2010	4.2	c	c	43
January 2011	c	c	1.35	c
February 2011	5.7	15.1	.58	c

NH₃-N = ammonia nitrogen
 mg/L = milligrams per Liter
 c = compliant
 Conc. = concentration

Inst. = instantaneous
 Max. = maximum
 TSS = Total Suspended Solids
 Avg. = average

3. During record reviews conducted on July 5, 2011 and August 15, 2011, TCEQ staff documented the Respondent did not comply with the Maximum Contaminant Level ("MCL") for total coliform for the months of May 2011 and August 2011.
4. During a record review on July 5, 2011, TCEQ staff documented that the Respondent did not achieve the turbidity levels of combined filter effluent that is less than 0.3 nephelometric turbidity unit ("NTU") in at least 95% of samples tested each month, and less than 5.0 NTU in combined filter effluent. Specifically, a review of the surface water monthly operating report for the month of April 2011 revealed that 13.3% of the combined filter effluent turbidity readings were above 0.3 NTU. This exceeds the 5.0% limit for the month.
5. During a record review on July 5, 2011, TCEQ staff documented that the Respondent did not comply with the MCL of 0.080 milligrams per liter ("mg/L") for trihalomethanes ("TTHM"), based on the running annual average. Specifically, the running annual average concentration of TTHM was 0.087 mg/L for the fourth quarter of 2010, 0.088 mg/L for the third quarter of 2010, 0.083 mg/L for the second quarter of 2010, and 0.088 mg/L for the first quarter of 2010.
6. The Respondent received notice of the violations on July 8, 2011 and August 18, 2011.
7. The Executive Director recognizes that the Respondent cleaned out the sulfur injectors and purchased space heaters to prevent freezing of the wastewater treatment plant, and returned to compliance with permitted effluent limits by March 31, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010069003, Effluent Limitations and Monitoring Requirements Nos. 1 and 2.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL for total coliform for the months of May 2011 and August 2011, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to achieve the turbidity levels of combined filter effluent that is less than 0.3 NTU in at least 95% of samples tested each month, and less than 5.0 NTU in combined filter effluent, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 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.
7. An administrative penalty in the amount of Thirteen Thousand Fifteen Dollars (\$13,015) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b) and TEX. WATER CODE § 7.053. Thirteen Thousand Fifteen Dollars (\$13,015) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 Thirteen Thousand Fifteen Dollars (\$13,015) as set forth in Section II, Paragraph 7 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 Big Spring, Docket No. 2011-1007-MLM-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 7 above, Thirteen Thousand Fifteen Dollars (\$13,015) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;
 - b. Within 30 days after the effective date of this Agreed Order, begin maintaining the turbidity level of combined filter effluent so that at least 95% of the samples tested each month is 0.3 NTU or less, in accordance with 30 TEX. ADMIN. CODE § 290.111;
 - c. Within 45 days after the effective date of this Agreed Order, certify compliance with Ordering Provision No. 3.a. as described in Ordering Provision No. 3.f. below;
 - d. Within 195 days after the effective date of this Agreed Order, certify compliance with Ordering Provision No. 3.b. as described in Ordering Provision No. 3.f. below;
 - e. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and

- f. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.e. 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:

DBP Compliance Coordinator
Water Supply Division/PDWS, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and:

Water Section, Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

4. 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.
5. 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.

6. 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.
7. 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.
8. 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.
9. 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.
10. 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.

11. 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

2/8/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Big Spring. I am authorized to agree to the attached Agreed Order on behalf of the City of Big Spring, 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 Big Spring 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

7-9-12
Date

Tommy Duncan
Name (Printed or typed)
Authorized Representative of
City of Big Spring

Mayor
Title

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

Attachment A
Docket Number: 2011-1007-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Big Spring
Payable Penalty Amount:	Thirteen Thousand Fifteen Dollars (\$13,015)
SEP Amount:	Thirteen Thousand Fifteen Dollars (\$13,015)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up
Location of SEP:	Howard County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Recipient and TCEQ. The Third-Party Recipient shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

City of Big Spring
Agreed Order – Attachment A

Respondent certifies that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient named above and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.