

Executive Summary – Enforcement Matter – Case No. 44190

City of McGregor

RN101609220

Docket No. 2012-1036-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

South Plant, located adjacent to and west of State Highway 317, approximately two miles south of the intersection of United States Highway 84 and State Highway 317, McLennan 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 23, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,427

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$22,427

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44190
City of McGregor
RN101609220
Docket No. 2012-1036-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 23, 2012

Date(s) of NOE(s): April 25, 2012

Violation Information

1. Failed to comply with permitted effluent limits for chlorine, dissolved oxygen, total suspended solids, and whole effluent toxicity [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010219002, Final Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].

2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2011 by September 1, 2011 [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010219002, Sludge Provisions].

3. Failed to timely submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17), and 319.7(d), and TPDES Permit No. WQ0010219002, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

a. By April 30, 2012, achieved compliance with the permitted effluent limits by installing a belt press, including a second clarifier to the process, and updating sludge management practices;

b. By May 3, 2012, submitted the discharge monitoring report ("DMR") for the monitoring period ending May 31, 2011, and submitted the annual sludge report for the monitoring period ending July 31, 2011, to the TCEQ; and

c. By July 17, 2012, updated the Facility's operational guidance and conducted employee training to ensure that DMRs are submitted by the 20th of the following month and that the annual sludge report is submitted by September 1 of each year.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 44190

City of McGregor

RN101609220

Docket No. 2012-1036-MWD-E

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division,
Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable James Hering, Mayor, City of McGregor, P.O. Box 192,
McGregor, Texas 76657

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-Apr-2012	Screening	11-May-2012	EPA Due	
	PCW	20-Jul-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of McGregor
Reg. Ent. Ref. No.	RN101609220
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	44190	No. of Violations	3	
Docket No.	2012-1036-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Government/Non-Profit	Yes	
Multi-Media		Enf. Coordinator	Heather Brister	
		EC's Team	Enforcement Team 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	100.0% Enhancement	Subtotals 2, 3, & 7	\$9,000

Notes: Enhancement for 25 months of self-reported effluent violations, two NOV's for same/similar violations, one NOV for dissimilar violations, and two orders with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$0	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$0		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Notes:

Final Penalty Amount	\$17,125
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,125
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$17,125
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Screening Date 11-May-2012

Docket No. 2012-1036-MWD-E

PCW

Respondent City of McGregor

Policy Revision 3 (September 2011)

Case ID No. 44190

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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>)	27	135%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 177%

>> 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 25 months of self-reported effluent violations, two NOVs for same/similar violations, one NOV for dissimilar violations, and two orders with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 177%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 11-May-2012
Respondent City of McGregor
Case ID No. 44190

Docket No. 2012-1036-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010219002, Final Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on March 23, 2012. See attached table.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			30.0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 31 Number of violation days

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

Violation Base Penalty \$7,500

One quarterly event is recommended for the quarterly monitoring event ending September 2011.

Good Faith Efforts to Comply

10.0% Reduction \$750

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

Notes The Respondent achieved compliance by April 30, 2012.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$14,250

This violation Final Assessed Penalty (adjusted for limits) \$14,250

Economic Benefit Worksheet

Respondent City of McGregor
Case ID No. 44190
Reg. Ent. Reference No. RN101609220
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description 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 on the accompanying PCW.

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 11-May-2012

Docket No. 2012-1036-MWD-E

PCW

Respondent City of McGregor

Policy Revision 3 (September 2011)

Case ID No. 44190

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010219002, Final Effluent Limitations and Monitoring Requirements No. 2

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on March 23, 2012. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

92 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the months of October, November, and December 2011.

Good Faith Efforts to Comply

10.0% Reduction

\$125

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

Notes The Respondent achieved compliance by April 30, 2012.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,375

This violation Final Assessed Penalty (adjusted for limits) \$2,375

Economic Benefit Worksheet

Respondent City of McGregor
Case ID No. 44190
Reg. Ent. Reference No. RN101609220
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 on the accompanying PCW.

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 11-May-2012

Docket No. 2012-1036-MWD-E

PCW

Respondent City of McGregor

Policy Revision 3 (September 2011)

Case ID No. 44190

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0010219002, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2011 by September 1, 2011, as documented during a record review conducted on March 23, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

At least 70% of the rule was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

49 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent City of McGregor
Case ID No. 44190
Reg. Ent. Reference No. RN101609220
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)				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. 2 on accompanying PCW.

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Apr-2012	Screening	12-May-2012	EPA Due	
	PCW	20-Jul-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of McGregor
Reg. Ent. Ref. No.	RN101609220
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	44190	Order Type	Findings
Docket No.	2012-1036-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		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	\$2,100
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	177.0% Enhancement	Subtotals 2, 3, & 7
		\$3,717

Notes: Enhancement for 25 months of self-reported effluent violations, two NOV's for same/similar violations, one NOV for dissimilar violations, and two orders with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$200
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$53,430	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$857,275		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,617
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-5.6%	Adjustment	-\$315
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes: Recommended reduction to prevent the self-reported violations from overly impacting the penalty.

Final Penalty Amount	\$5,302
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,302
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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	\$5,302
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Screening Date 12-May-2012

Docket No. 2012-1036-MWD-E

PCW

Respondent City of McGregor

Policy Revision 2 (September 2002)

Case ID No. 44190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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>)	27	135%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 177%

>> 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 25 months of self-reported effluent violations, two NOVs for same/similar violations, one NOV for dissimilar violations, and two orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 177%

Screening Date 12-May-2012
Respondent City of McGregor
Case ID No. 44190

Docket No. 2012-1036-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010219002, Final Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on March 23, 2012. See attached table.

Base Penalty \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	10%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 121 Number of violation days

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 the months of January, February, July, and August 2011.

Good Faith Efforts to Comply

10.0% Reduction

\$200

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

Notes The Respondent achieved compliance by April 30, 2012.

Violation Subtotal \$1,800

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53,416

Violation Final Penalty Total \$5,041

This violation Final Assessed Penalty (adjusted for limits) \$5,041

Economic Benefit Worksheet

Respondent City of McGregor
Case ID No. 44190
Reg. Ent. Reference No. RN101609220
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)				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)	\$857,000	31-Jan-2011	30-Apr-2012	1.25	\$53,416	n/a	\$53,416

Notes for DELAYED costs

Estimated cost to install a belt press, include a second clarifier to the process, and to update sludge management practices to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. 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

\$857,000

TOTAL

\$53,416

Screening Date 12-May-2012

Docket No. 2012-1036-MWD-E

PCW

Respondent City of McGregor

Policy Revision 2 (September 2002)

Case ID No. 44190

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17), and 319.7(d), and TPDES Permit No. WQ0010219002, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on March 23, 2012. Specifically, the discharge monitoring report ("DMR") for the monitoring period ending May 31, 2011, was not submitted by the 20th day of the following month.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

At least 70% of the rule was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

327 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$261

This violation Final Assessed Penalty (adjusted for limits) \$261

Economic Benefit Worksheet

Respondent City of McGregor
Case ID No. 44190
Reg. Ent. Reference No. RN101609220
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	\$25	20-Jun-2011	3-May-2012	0.87	\$1	n/a	\$1
Training/Sampling	\$250	20-Jun-2011	17-Jul-2012	1.08	\$13	n/a	\$13
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 submit the DMR and the annual sludge report to TCEQ, to update operational guidance and conduct employee training to ensure that DMRs are submitted by the 20th of the following month and that the annual sludge report is submitted by September 1 of each year. Date required is the date the May 2011 DMR was due. Final dates are the date the DMR and annual sludge report were submitted to the TCEQ and 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 \$275

TOTAL \$15

Respondent:
ID Number(s):
Docket Number:
Enf. Coordinator:

City of McGregor
 TPDES Permit No. WQ0010219002
 2012-1036-MWD-E
 Heather Brister

Corresponds to Violation Number: 1

EFFLUENT PARAMETER						
Permit Limit						
Month/Year	Chlorine Residual After Dechlorinization <0.1 mg/L	Chlorine Residual Min. 1.0 mg/L	Dissolved Oxygen Min. 4.0 mg/L	TSS Daily Avg. Conc. 15 mg/L	Whole Effluent Toxicity Daily Avg. ≥94%	Whole Effluent Toxicity Daily Max. ≥94%
January 2011	c	c	c	16.1	c	c
February 2011	1.08	c	c	18.6	c	c
July 2011	c	c	3.85	c	c	c
August 2011	c	0.54	2.45	c	c	c
September 2011	c	c	c	c	53	53
October 2011	c	0.57	c	c	c	c
November 2011	0.21	0.64	c	c	c	c
December 2011	0.17	c	c	c	c	c

TSS = total suspended solids
 mg/L = milligrams per liter
 Min. = minimum
 c = compliant

Conc. = concentration
 Max. = maximum
 Avg. = average
 Inst. = instantaneous

Compliance History Report

Customer/Respondent/Owner-Operator: CN600755631 City of McGregor Classification: AVERAGE Rating: 2.66
Regulated Entity: RN101609220 SOUTH PLANT Classification: AVERAGE Site Rating: 2.60
ID Number(s): WASTEWATER PERMIT WQ0010219002
WASTEWATER EPA ID TX0023914
WATER QUALITY NON PERMITTED ID NUMBER 090100539

Location: Located adjacent to and west of State Highway 317, approximately two miles south of the intersection of U.S. Highway 84 and State Highway 317, McLennan County, Texas

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: May 10, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 10, 2007 to May 10, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Heather Brister Phone: (254) 761-3034

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: **10/06/2008** ADMINORDER 2008-0587-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov: Self-reporting Requirements PERMIT
Sludge Provisions PERMIT
Description: Failure to submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007 as documented during a record review conducted on January 28, 2008.

Effective Date: **04/11/2010** ADMINORDER 2009-1303-MWD-E
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: Operational Requirements PERMIT
Description: Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

- 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	03/21/2012	(1003732)
2	05/22/2007	(577737)
3	08/13/2007	(577740)
4	08/13/2007	(577743)
5	08/24/2007	(607825)
6	09/26/2007	(607827)
7	07/22/2007	(607828)
8	07/22/2007	(607829)
9	03/04/2008	(616141)
10	02/29/2008	(619076)
11	11/20/2007	(620457)
12	01/07/2008	(620458)

13 02/25/2008 (672734)
 14 03/25/2008 (690754)
 15 02/28/2008 (690755)
 16 10/10/2008 (702895)
 17 09/04/2008 (711611)
 18 09/04/2008 (711612)
 19 09/04/2008 (711613)
 20 09/04/2008 (711614)
 21 09/23/2008 (711615)
 22 05/20/2009 (742283)
 23 04/24/2009 (743135)
 24 06/19/2009 (744339)
 25 04/21/2009 (751046)
 26 04/21/2009 (751047)
 27 04/21/2009 (751048)
 28 04/21/2009 (751049)
 29 04/21/2009 (751050)
 30 04/21/2009 (751051)
 31 04/21/2009 (751052)
 32 04/21/2009 (751053)
 33 07/24/2009 (762339)
 34 09/11/2009 (765689)
 35 12/22/2009 (782013)
 36 03/05/2010 (791182)
 37 03/12/2010 (806626)
 38 06/04/2009 (806627)
 39 06/30/2009 (806628)
 40 08/21/2009 (806629)
 41 09/22/2009 (806630)
 42 11/02/2009 (806631)
 43 01/08/2010 (806632)
 44 01/08/2010 (806633)
 45 01/26/2010 (806634)
 46 03/30/2010 (831572)
 47 04/29/2010 (831573)
 48 06/01/2010 (845098)
 49 07/06/2010 (846485)
 50 11/17/2010 (864723)
 51 09/23/2010 (867089)
 52 08/30/2010 (867090)
 53 10/06/2010 (881747)
 54 10/21/2010 (881748)
 55 12/02/2009 (896506)
 56 01/07/2011 (902533)
 57 10/21/2010 (902534)
 58 05/03/2011 (907905)
 59 03/11/2011 (916575)
 60 04/01/2011 (925509)
 61 05/12/2011 (938264)
 62 06/17/2011 (945640)
 63 07/12/2011 (952879)
 64 08/22/2011 (959545)
 65 09/26/2011 (965582)
 66 10/27/2011 (977787)
 67 11/29/2011 (977788)
 68 01/06/2012 (990844)
 69 01/23/2012 (990845)
 70 04/26/2012 (995388)
 71 02/29/2012 (998214)

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

Date: **12/31/2007** (607829) CN600755631
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2008** (711612) CN600755631
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2008** (751050) CN600755631
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2009** (751048) CN600755631
 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: **04/23/2009** (743135) CN600755631
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Operational Requirements PERMIT
 Description: Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

Date: **06/22/2009** (744339) CN600755631
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 Description: Failure to obtain a permit for storm water discharges associated with an industrial facility.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Operational Requirements PERMIT
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Final Effluent Limitations PERMIT
 Description: Failure to discharge effluent in compliance with permitted effluent limitations.

Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Final Effluent Limitations PERMIT
 Description: Failure to discharge effluent in compliance with permitted effluent limitations.

Date: **07/31/2009** (806629) CN600755631
 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: **09/30/2009** (806631) CN600755631
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date	10/31/2009	(806632)	CN600755631	
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	(806634)	CN600755631	
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	(831572)	CN600755631	
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	03/31/2010	(831573)	CN600755631	
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	(845098)	CN600755631	
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	(867089)	CN600755631	
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	09/30/2010	(881748)	CN600755631	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/19/2010	(864723)	CN600755631	
Self Report?	NO			Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements PERMIT			
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.			
Self Report?	NO			Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) REQ. APP. TO SLG DISP. IN MSW LANDFILL PERMIT			
Description:	Failure by the permittee to maintain Paint Filter Test Records on-site and readily available to the Texas Commission on Environmental Quality (TCEQ) upon request.			
Self Report?	NO			Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Section G. Reporting Requirements PERMIT			
Description:	Failure by the permittee to submit a completed Annual Sludge Report as required by permit.			

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitation and Monitoring Req. PERMIT		
Description:	Failure by the permittee to discharge wastewater in compliance with permitted effluent limitations.		
Date	11/30/2010 (902533)	CN600755631	
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 (902534)	CN600755631	
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 (916575)	CN600755631	
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 (925509)	CN600755631	
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 (959545)	CN600755631	
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 (965582)	CN600755631	
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 (977787)	CN600755631	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2011 (977788)	CN600755631	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2011 (990844)	CN600755631	
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 **12/31/2011** (990845) CN600755631
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 **01/31/2012** (998214) CN600755631
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date **02/29/2012** (1003732) CN600755631
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 MCGREGOR
RN101609220**

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

**AGREED ORDER
DOCKET NO. 2012-1036-MWD-E**

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

The Respondent understands that 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 wastewater treatment plant located adjacent to and west of State Highway 317, approximately two miles south of the intersection of United States Highway 84 and State Highway 317 in McLennan County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on March 23, 2012, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports (“DMRs”):

EFFLUENT PARAMETER						
Permit Limit						
	Chlorine Residual After Dechlorination <0.1 mg/L	Chlorine Residual Min. 1.0 mg/L	Dissolved Oxygen Min. 4.0 mg/L	TSS Daily Avg. Conc. 15 mg/L	Whole Effluent Toxicity Daily Avg. ≥94%	Whole Effluent Toxicity Daily Max. ≥94%
Month/Year						
January 2011	c	c	c	16.1	c	c
February 2011	1.08	c	c	18.6	c	c
July 2011	c	c	3.85	c	c	c
August 2011	c	0.54	2.45	c	c	c
September 2011	c	c	c	c	53	53
October 2011	c	0.57	c	c	c	c
November 2011	0.21	0.64	c	c	c	c
December 2011	0.17	c	c	c	c	c

TSS = total suspended solids
 mg/L = milligrams per liter
 Min. = minimum
 c = compliant

Conc. = concentration
 Max. = maximum
 Avg. = average
 Inst. = instantaneous

4. During a record review on March 23, 2012, TCEQ staff documented that the annual sludge report for the monitoring period ending July 31, 2011, was not submitted by September 1, 2011.
5. During a record review on March 23, 2012, TCEQ staff documented that the DMR for the monitoring period ending May 31, 2011, was not submitted by the 20th day of the following month.
6. The Respondent received notice of the violations on April 30, 2012.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By April 30, 2012, achieved compliance with the permitted effluent limits by installing a belt press, including a second clarifier to the process, and updating sludge management practices;

- b. By May 3, 2012, submitted the DMR for the monitoring period ending May 31, 2011, and submitted the annual sludge report for the monitoring period ending July 31, 2011, to the TCEQ; and
- c. By July 17, 2012, updated the Facility's operational guidance and conducted employee training to ensure that DMRs are submitted by the 20th of the following month and that the annual sludge report is submitted by September 1 of each year, in accordance with TPDES Permit No. WQ0010219002, Monitoring and Reporting Requirements No. 1 and Sludge Provisions.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010219002, Final Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the annual sludge report for the monitoring period ending July 31, 2011 by September 1, 2011, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010219002, Sludge Provisions.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17), and 319.7(d), and TPDES Permit No. WQ0010219002, Monitoring and Reporting Requirements No. 1.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Twenty-Two Thousand Four Hundred Twenty-Seven Dollars (\$22,427) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Twenty-Two Thousand Four Hundred Twenty-Seven Dollar (\$22,427) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Two Thousand Four Hundred Twenty-Seven Dollars (\$22,427) as set forth in Section II, Paragraph 6 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 McGregor, Docket No. 2012-1036-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

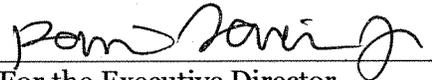
may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/13/13
Date

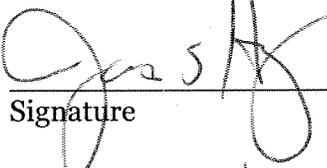
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of McGregor. I am authorized to agree to the attached Agreed Order on behalf of the City of McGregor, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

I understand that by entering into this Agreed Order, the City of McGregor 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

8/30/12
Date

James S. Hering
Name (Printed or typed)
Authorized Representative of
City of McGregor

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.