

Executive Summary – Enforcement Matter – Case No. 44646

City of Shepherd

RN101916666

Docket No. 2012-1511-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Shepherd WWTF, located approximately 1,400 feet northeast of the intersection of U.S. Highway 59 and State Highway 150, San Jacinto County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 30, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,563

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,563

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 2011

Executive Summary – Enforcement Matter – Case No. 44646

City of Shepherd

RN101916666

Docket No. 2012-1511-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 17, 2012

Date(s) of NOE(s): July 27, 2012

Violation Information

Failed to comply with permitted effluent limits for dissolved oxygen and ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011380001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent achieved compliance at the Facility by May 31, 2012 by replacing a rotor that stopped working.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Nick Nevid, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2612; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Sherry Roberts, Mayor Pro-tem, City of Shepherd, 11020 Highway 150, Shepherd, Texas 77371

The Honorable Glenn Dillon, Mayor, City of Shepherd, 11020 Highway 150, Shepherd, Texas 77371

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-Jul-2012	Screening	30-Jul-2012	EPA Due	
	PCW	19-Sep-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Shepherd		
Reg. Ent. Ref. No.	RN101916666		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44646	No. of Violations	1
Docket No.	2012-1511-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Nick Nevid
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

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 16 months of self-reported effluent violations, two NOV's with same/similar violations, three NOV's with dissimilar violations, three orders with denial language, and one order without denial language.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 30-Jul-2012

Docket No. 2012-1511-MWD-E

PCW

Respondent City of Shepherd

Policy Revision 3 (September 2011)

Case ID No. 44646

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101916666

Media [Statute] Water Quality

Enf. Coordinator Nick Nevid

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	18	90%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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) 181%

>> 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 16 months of self-reported effluent violations, two NOVs with same/similar violations, three NOVs with dissimilar violations, three orders with denial language, and one order without denial language.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 181%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 30-Jul-2012

Docket No. 2012-1511-MWD-E

PCW

Respondent City of Shepherd

Policy Revision 3 (September 2011)

Case ID No. 44646

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101916666

Media [Statute] Water Quality

Enf. Coordinator Nick Nevid

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. WQ0011380001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on July 17, 2012, and as shown in the attached violation 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

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. In addition, dissolved oxygen was considered. 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 3

90 Number of violation days

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

Violation Base Penalty \$3,750

Three quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes The Respondent achieved compliance by May 31, 2012.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$67

Violation Final Penalty Total \$6,563

This violation Final Assessed Penalty (adjusted for limits) \$6,563

Economic Benefit Worksheet

Respondent City of Shepherd
Case ID No. 44646
Reg. Ent. Reference No. RN101916666
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	\$1,637	31-Oct-2011	31-May-2012	0.58	\$3	\$64	\$67
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

Actual cost of a new rotor to replace a broken rotor that caused noncompliance at the Facility. Date required is the initial date of noncompliance. Final date is the date when the Facility 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	\$1,637	TOTAL	\$67
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City of Shepherd
TPDES Permit No. WQ0011380001
Docket No. 2012-1511-MWD-E

Effluent Violation Table			
Permitted Effluent Limits	Monitoring Period		
	October 2011	February 2012	April 2012
Dissolved Oxygen Minimum Concentration (Limit = 6.0 mg/L)	4.8	c	5.8
Ammonia Nitrogen Daily Average Concentration (Limit = 3 mg/L)	c	6.73	10.2
Ammonia Nitrogen Single Grab Concentration (Limit = 15 mg/L)	c	c	22.4
Ammonia Nitrogen Daily Average Loading (Limit = 10 lbs/day)	c	14.9	15.6

mg/L = milligrams per liter
lbs/day = pounds per day
c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator: CN600656458 City of Shepherd Classification: AVERAGE Rating: 4.34
Regulated Entity: RN101916666 CITY OF SHEPHERD Classification: AVERAGE Site Rating: 5.68
ID Number(s): WASTEWATER PERMIT WQ0011380001
WASTEWATER EPA ID TX0054160
WASTEWATER LICENSING LICENSE WQ0011380001
Location: Approximately 1,400 feet northeast of the intersection of United States Highway 59 and State Highway 150
in San Jacinto County, Texas
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: July 30, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 30, 2007 to July 30, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Nick Nevid Phone: (512) 239 - 1612

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: 09/21/2007 ADMINORDER 2006-1877-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.

Effective Date: 04/14/2008 ADMINORDER 2007-1463-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: FEL&MR 4 PERMIT

Description: Failure to prevent the discharge of floating solids from the Facility. Specifically, grease particulates were observed discharging to the receiving stream.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3(c)(2)

Rqmt Prov: OpR, No. 1 PERMIT

Description: Failure to maintain a firm pumping capacity consisting of at least two operational pumps at the Rolling Hills Lift Station. Specifically, one of the two pumps was missing.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3(e)(4)(C)

Rqmt Prov: OpR, No. 1 PERMIT

Description: Failure to operate and maintain the 59 North lift station. Specifically, two sides of the

intruder-resistant fence were not installed, and the site grade was not being maintained to prevent the development of sink holes and uneven ground around the lift station.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3(e)(5)

Rqmt Prov: OpR, No. 1 PERMIT

Description: Failure to maintain the high level alarm light at the wastewater treatment plant lift station.

Effective Date: 06/15/2009 ADMINORDER 2009-0017-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: Sludge Reporting Requirements PERMIT

Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

Effective Date: 11/15/2010 ADMINORDER 2010-0004-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: Sludge Reporting Requirements PERMIT

Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

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	03/26/2012	(1004137)
2	06/07/2012	(1007013)
3	04/25/2012	(1010701)
4	05/17/2012	(1017077)
5	07/27/2012	(1020477)
6	10/19/2007	(598475)
7	09/18/2007	(603385)
8	09/18/2007	(603386)
9	11/28/2007	(609342)
10	11/07/2007	(621839)
11	12/21/2007	(621840)
12	12/21/2007	(621841)
13	03/05/2008	(673790)
14	01/28/2008	(673791)
15	05/23/2008	(680311)
16	07/18/2008	(686772)
17	08/11/2008	(687029)
18	04/07/2008	(692013)

19	04/22/2008	(692014)
20	07/29/2008	(692015)
21	07/29/2008	(692016)
22	12/15/2008	(706553)
23	08/05/2008	(713067)
24	08/27/2008	(713068)
25	09/29/2008	(713069)
26	10/17/2008	(729235)
27	11/21/2008	(729236)
28	12/19/2008	(729237)
29	02/11/2009	(752408)
30	03/12/2009	(752409)
31	01/13/2009	(752410)
32	06/29/2009	(760305)
33	05/14/2009	(770065)
34	05/15/2009	(770066)
35	12/18/2009	(780730)
36	11/30/2009	(780910)
37	11/13/2009	(781237)
38	05/20/2010	(800021)
39	02/18/2010	(809824)
40	07/23/2009	(809825)
41	07/23/2009	(809826)
42	02/16/2010	(809827)
43	09/17/2009	(809828)
44	10/30/2009	(809829)
45	12/17/2009	(809830)
46	12/17/2009	(809831)
47	01/21/2010	(809832)
48	03/25/2010	(832703)
49	04/26/2010	(832704)
50	06/24/2010	(845207)
51	08/19/2010	(867542)
52	08/19/2010	(867543)
53	10/21/2010	(874540)
54	06/24/2010	(888585)
55	12/06/2010	(888586)
56	03/30/2011	(908016)
57	04/06/2011	(908546)
58	03/15/2011	(909731)
59	12/20/2010	(909732)
60	12/20/2010	(909733)
61	01/24/2011	(909734)
62	04/27/2011	(913300)
63	04/28/2011	(913895)
64	03/24/2011	(916963)
65	04/25/2011	(926900)
66	05/12/2011	(938670)
67	06/16/2011	(946034)

68 07/21/2011 (953295)
 69 09/29/2011 (956411)
 70 08/15/2011 (959937)
 71 09/15/2011 (965979)
 72 10/13/2011 (972017)
 73 11/16/2011 (978181)
 74 02/09/2012 (981962)
 75 12/16/2011 (984957)
 76 01/23/2012 (991242)
 77 02/27/2012 (998605)

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

Date: 11/28/2007 (609342) CN600656458

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 312, SubChapter G 312.145(b)(2)
 Description: Failure by the registrant to retain copies of trip tickets for five years. Copies of the trip tickets for the years 2004 and 2005 were not available for review. Mr. Rash stated that the missing records were lost/destroyed in a burglary. Mr. Rash produced a police that indicated the burglary occurred on February 19, 2005.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 312, SubChapter G 312.145
 Description: During the review of the trip tickets the following was noted:
 A. The Commission Registration number was not included on the trip tickets.
 B. The driver is not recording the date collected in the transporter section of the trip ticket.

Date: 03/31/2008 (692014) CN600656458

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 (692015) CN600656458

Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 05/31/2008 (692016) CN600656458

Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 06/30/2008 (713067) CN600656458

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: 02/05/2009 (725551) CN600656458

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 PC 2g PERMIT

Description: Failure by the City of Shepherd to prevent unauthorized discharge as a result of inflow/infiltration impact to the wastewater treatment system.

Self Report? NO Classification: Moderate
 Citation: OpR1 PERMIT

Description: Failure by the City of Shepherd to properly manage the solids inventory in the wastewater treatment system.

Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT

Description: Failure by the City of Shepherd to properly maintain wet well covers on the Tibiera Lift Station and the Highway 150 Lift Station.

Self Report? NO Classification: Minor

Citation: Opr 1 PERMIT
 Description: Failure by the City of Shepherd to maintain an operable visual high water alarm in the effluent lift station.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Shepherd to properly maintain the skimmer serving the final clarifier.
 Self Report? NO Classification: Minor
 Citation: EL&MR 2 PERMIT
 Description: Failure by the City of Shepherd to discharge effluent in compliance with minimum permit limitations for total chlorine residual and for minimum dissolved oxygen concentration.
 Self Report? NO Classification: Moderate
 Citation: M&RR 5 PERMIT
 Description: Failure by the City of Shepherd to properly operate the facility effluent flow measurement device.
 Self Report? NO Classification: Moderate
 Citation: M&RR 7 PERMIT
 Description: Failure by the City of Shepherd to provide noncompliance notification of unauthorized discharges.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Shepherd to properly handle wastewater treatment plant sludge.
 Date: 05/31/2009 (809825) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2009 (809826) CN600656458
 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: 07/31/2009 (809827) CN600656458
 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 (809829) CN600656458
 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 (809830) CN600656458
 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 (832704) CN600656458
 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 (845207) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/19/2010 (800021) CN600656458
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Shepherd to properly maintain wet well covers on the Tibiera Lift Station and the Highway 150 Lift Station.
 Date: 05/31/2010 (888585) CN600656458

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 (867542) CN600656458

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: 04/27/2011 (913300) CN600656458

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 SP PERMIT
 Description: Failure by the City of Shepherd to submit the Annual Sludge Report by September 1 of each year.

Self Report? NO Classification: Minor
 Citation: OpR PERMIT
 Description: Failure by the City of Shepherd to properly operate and maintain units of treatment and collection.

Self Report? NO Classification: Moderate
 Citation: OpR PERMIT
 Description: Failure by the City of Shepherd to properly operate and maintain the facility and units of treatment and collection.

Self Report? NO Classification: Minor
 Citation: OpR PERMIT
 Description: Failure by the City of Shepherd to properly operate and maintain the facility and units of treatment and collection.

Self Report? NO Classification: Moderate
 Citation: OpR PERMIT
 Description: Failure by the City of Shepherd to properly operate and maintain the facility and units of treatment and collection.

Self Report? NO Classification: Minor
 Citation: OpR PERMIT
 Description: Failure by the City of Shepherd to properly operate and maintain the facility and units of treatment and collection.

Self Report? NO Classification: Minor
 Citation: OpR PERMIT
 Description: Failure by the City of Shepherd to properly operate and maintain the facility and units of treatment and collection.

Self Report? NO Classification: Minor
 Citation: MRR PERMIT
 Description: Failure by the City of Shepherd to comply with procedures specified in 30 TAC 319.11 - 319.12.

Self Report? NO Classification: Minor
 Citation: MRR PERMIT
 Description: Failure by the City of Shepherd to maintain monitoring records readily available for review by a TCEQ representative for a period of three years from the date of the record.

Self Report? NO Classification: Minor
 Citation: MRR PERMIT
 Description: Failure by the City of Shepherd to verify in writing that the flow meter is operating properly and giving accurate results.

Self Report? NO Classification: Moderate
 Citation: MRR PERMIT
 Description: Failure by the City of Shepherd to report effluent violations that deviate from the permitted effluent limitations by more than 40% to the Regional Office and the Enforcement Division within 5 working days of becoming aware of the noncompliance.

Self Report? NO Classification: Moderate
 Citation: OpR PERMIT
 Description: Failure by the City of Shepherd to properly operate and maintain the facility and units of treatment and collection.

Self Report? NO Classification: Moderate
 Citation: MRR PERMIT
 Description: Failure by the City of Shepherd to have records of calibration and maintenance readily available for review by a TCEQ representative for a period of three years

from the date of the record.
Date: 10/04/2011 (957750) CN600656458
Self Report? NO Classification: Moderate
Citation: PC PERMIT
Description: Failure by the City of Shepherd to prevent the discharge of sludge to the receiving stream that has a reasonable likelihood of adversely affecting human health or the environment.

Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
PC PERMIT
Description: Failure by the City of Shepherd to prevent an unauthorized discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall.

Date: 10/31/2011 (978181) CN600656458
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 (1004137) CN600656458
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: 04/30/2012 (1017077) CN600656458
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 SHEPHERD
RN101916666**

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

**AGREED ORDER
DOCKET NO. 2012-1511-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 Shepherd (“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 facility located approximately 1,400 feet northeast of the intersection of United States Highway 59 and State Highway 150 in San Jacinto 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 July 17, 2012, TCEQ staff documented the following from self-reported discharge monitoring reports (“DMRs”):

Effluent Violation Table			
Permitted Effluent Limits	Monitoring Period		
	October 2011	February 2012	April 2012
Dissolved Oxygen Minimum Concentration (Limit = 6.0 mg/L)	4.8	c	5.8
Ammonia Nitrogen Daily Average Concentration (Limit = 3 mg/L)	c	6.73	10.2
Ammonia Nitrogen Single Grab Concentration (Limit = 15 mg/L)	c	c	22.4
Ammonia Nitrogen Daily Average Loading (Limit = 10 lbs/day)	c	14.9	15.6

mg/L = milligrams per liter
 lbs/day = pounds per day
 c = compliant

4. The Respondent received notice of the violations on July 30, 2012.
5. The Executive Director recognizes that the Respondent achieved compliance at the Facility by May 31, 2012 by replacing a rotor that stopped working.

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. WQ0011380001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 6.

3. 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.
4. An administrative penalty in the amount of Six Thousand Five Hundred Sixty-Three Dollars (\$6,563) 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 Six Thousand Five Hundred Sixty-Three Dollar (\$6,563) 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 Six Thousand Five Hundred Sixty-Three Dollars (\$6,563) as set forth in Section II, Paragraph 4 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 Shepherd, Docket No. 2012-1511-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

Pam Harris

For the Executive Director

2/11/13

Date

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

Sherry Roberts
Signature

10-12-2012
Date

Sherry Roberts
Name (Printed or typed)
Authorized Representative of
City of Shepherd

Mayor - Pro Tem
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.