

**Executive Summary – Enforcement Matter – Case No. 44749**

**City of Borger**

**RN102328499**

**Docket No. 2012-1633-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Borger Rock Creek Plant, 1302 West Third Street, Borger, Hutchinson 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 30, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,600

**Amount Deferred for Expedited Settlement:** \$3,320

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$13,280

**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:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 44749**

**City of Borger**

**RN102328499**

**Docket No. 2012-1633-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** July 6, 2012

**Date(s) of NOE(s):** August 6, 2012

***Violation Information***

Failed to comply with permitted effluent limitations for ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010535001, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010535001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Remington Burklund, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2611; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Eddie E. Edwards, City Manager, City of Borger, P.O. Box 5250, Borger, Texas 79008

The Honorable Jeff Brain, Mayor, City of Borger, P.O. Box 5250, Borger, Texas 79008

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Aug-2012	<b>Screening</b>	13-Aug-2012	<b>EPA Due</b>	5-Dec-2012
	<b>PCW</b>	15-Aug-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Borger				
<b>Reg. Ent. Ref. No.</b>	RN102328499				
<b>Facility/Site Region</b>	1-Amarillo	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44749	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1633-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Remington Burklund
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$2,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **66.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,650**

Notes: Enhancement for nine months of self-reported effluent violations, three NOV's with same/similar violations, and three NOV's with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts: \$0  
 Approx. Cost of Compliance: \$0  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$4,150**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$4,150**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$4,150**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$830**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$3,320**

Screening Date 13-Aug-2012

Docket No. 2012-1633-MWD-E

PCW

Respondent City of Borger

Policy Revision 2 (September 2002)

Case ID No. 44749

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328499

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	12	60%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 66%

#### >> 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 nine months of self-reported effluent violations, three NOVs with same/similar violations, and three NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 66%

Screening Date 13-Aug-2012

Docket No. 2012-1633-MWD-E

PCW

Respondent City of Borger

Policy Revision 2 (September 2002)

Case ID No. 44749

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328499

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010535001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on July 6, 2012, and as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended for the quarter containing the month of August 2011.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,150

This violation Final Assessed Penalty (adjusted for limits) \$4,150

# Economic Benefit Worksheet

**Respondent** City of Borger  
**Case ID No.** 44749  
**Reg. Ent. Reference No.** RN102328499  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

Delayed Costs are assessed in the accompanying Penalty Calculation Worksheet.

### 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 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Aug-2012	<b>Screening</b>	13-Aug-2012	<b>EPA Due</b>	5-Dec-2012
	<b>PCW</b>	15-Aug-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Borger
<b>Reg. Ent. Ref. No.</b>	RN102328499
<b>Facility/Site Region</b>	1-Amarillo
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	1
<b>Enf./Case ID No.</b>	44749	<b>Order Type</b>	1660
<b>Docket No.</b>	2012-1633-MWD-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Remington Burklund
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$7,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **66.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,950**

Notes: Enhancement for nine months of self-reported effluent violations, three NOVs with same/similar violations, and three NOVs with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts **\$1,227**  
 Approx. Cost of Compliance **\$10,000**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$12,450**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$12,450**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$12,450**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$2,490**

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$9,960**

Screening Date 13-Aug-2012

Docket No. 2012-1633-MWD-E

PCW

Respondent City of Borger

Policy Revision 3 (September 2011)

Case ID No. 44749

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102328499

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	12	60%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )		0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 66%

#### >> 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 nine months of self-reported effluent violations, three NOVs with same/similar violations, and three NOVs with dissimilar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 66%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 66%

Screening Date 13-Aug-2012

Docket No. 2012-1633-MWD-E

PCW

Respondent City of Borger

Policy Revision 3 (September 2011)

Case ID No. 44749

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102328499

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010535001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on July 6, 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 15.0%

>> 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. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

91 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended for the quarters containing the months of September 2011, March 2012, and April 2012.

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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,227

Violation Final Penalty Total \$12,450

This violation Final Assessed Penalty (adjusted for limits) \$12,450

# Economic Benefit Worksheet

**Respondent** City of Borger  
**Case ID No.** 44749  
**Reg. Ent. Reference No.** RN102328499  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	31-Aug-2011	1-Jun-2013	1.75	\$58	\$1,169	\$1,227
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to determine the cause of non-compliance and to make any necessary adjustments/repairs to the Facility to return to compliance with permitted effluent limitations. Date Required is the initial date of non-compliance. Final Date is the expected date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$10,000	<b>TOTAL</b>	\$1,227
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**City of Borger**  
**Docket No. 2012-1633-MWD-E**  
**TPDES Permit No. WQ0010535001**

**Effluent Parameter Violation Table**

	<b>Ammonia Nitrogen</b>	<b>Ammonia Nitrogen</b>
	Daily Average Concentration	Daily Maximum Concentration
<b>Month/Year</b>	Limit = 3 mg/L	Limit = 7 mg/L
August 2011	5.63	9.11
September 2011	4.12	10.1
March 2012	6.3	12.8
April 2012	7.1	15

c = compliant

mg/L = milligrams per liter

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600243315 City of Borger Classification: AVERAGE Rating: 1.37  
Regulated Entity: RN102328499 CITY OF BORGER ROCK CREEK Classification: AVERAGE Site Rating: 0.86  
PLANT  
ID Number(s): WASTEWATER PERMIT WQ0010535001  
WASTEWATER EPA ID TX0047031  
WASTEWATER LICENSING LICENSE WQ0010535001  
STORMWATER PERMIT TXR05Q332  
Location: 1302 WEST THIRD STREET, IN THE CITY OF BORGER, IN HUTCHINSON COUNTY, TEXAS  
TCEQ Region: REGION 01 - AMARILLO  
Date Compliance History Prepared: August 13, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 13, 2007 to August 13, 2012  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Remington Burklund Phone: 239 - 2611

## 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.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 03/19/2012 (1004046)
- 2 04/19/2012 (1010610)
- 3 08/09/2012 (1016263)
- 4 05/21/2012 (1016986)
- 5 06/21/2012 (1024746)
- 6 09/10/2007 (608036)
- 7 09/21/2007 (608037)
- 8 09/27/2007 (608629)
- 9 10/12/2007 (621563)
- 10 11/16/2007 (621564)
- 11 12/18/2007 (621565)
- 12 02/21/2008 (673522)
- 13 01/28/2008 (673523)
- 14 03/25/2008 (691766)

15 04/22/2008 (691767)  
16 06/20/2008 (691768)  
17 05/22/2008 (691769)  
18 07/17/2008 (712736)  
19 08/29/2008 (712737)  
20 09/23/2008 (712738)  
21 02/23/2009 (726033)  
22 10/20/2008 (728945)  
23 11/17/2008 (728946)  
24 12/15/2008 (728947)  
25 04/16/2009 (737566)  
26 03/24/2009 (738464)  
27 06/18/2009 (749611)  
28 02/23/2009 (752081)  
29 03/18/2009 (752082)  
30 02/10/2009 (752083)  
31 08/27/2009 (767096)  
32 04/17/2009 (769827)  
33 05/21/2009 (769828)  
34 11/16/2009 (774950)  
35 12/04/2009 (783724)  
36 04/20/2010 (794266)  
37 03/10/2010 (794287)  
38 05/12/2010 (802039)  
39 02/18/2010 (808973)  
40 06/18/2009 (808974)  
41 07/29/2009 (808975)  
42 08/19/2009 (808976)  
43 09/18/2009 (808977)  
44 10/20/2009 (808978)  
45 11/23/2009 (808979)  
46 12/21/2009 (808980)  
47 01/22/2010 (808981)  
48 03/18/2010 (832437)  
49 04/19/2010 (832438)  
50 05/21/2010 (832439)  
51 06/14/2010 (846752)  
52 04/19/2010 (861278)  
53 09/01/2010 (867427)  
54 09/20/2010 (874450)  
55 10/27/2010 (882031)  
56 12/14/2010 (888506)  
57 12/17/2010 (896830)  
58 12/07/2010 (902799)  
59 02/22/2011 (909637)  
60 03/17/2011 (916859)  
61 04/21/2011 (926555)

62 05/20/2011 (938572)  
 63 06/22/2011 (945944)  
 64 07/19/2011 (953199)  
 65 08/12/2011 (959840)  
 66 12/06/2011 (964425)  
 67 09/21/2011 (965881)  
 68 10/21/2011 (971923)  
 69 01/31/2012 (976969)  
 70 11/10/2011 (978089)  
 71 12/14/2011 (984859)  
 72 10/21/2011 (991148)  
 73 02/15/2012 (998513)

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

Date: 09/27/2007 (608629) CN600243315  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 04/30/2008 (691768) CN600243315  
 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: 08/31/2008 (712738) CN600243315  
 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 (728945) CN600243315  
 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: 10/31/2008 (728946) CN600243315  
 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: 11/30/2008 (728947) CN600243315  
 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: 03/24/2009 (738464) CN600243315  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Page 10, No 4 PERMIT  
 Description: Failure by the facility to 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: 04/16/2009 (737566) CN600243315  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Page 9, No 1 PERMIT  
Description: Failure by the facility to accurately measure effluent flow through the 90 degree  
"V" notch wier, and to maintain the percent error between the recorded flow and  
calculated flow within 10 percent.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Page 2, No. 1 PERMIT  
Description: Failure by the facility to maintain Ammonia Nitrogen within permit limits.  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Page 5, No. 5 PERMIT  
Description: Failure by the facility to calibrate all secondary flow measuring devices on an  
annual basis.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)  
Page 4, No. 2 PERMIT  
Description: Failure by the facility to properly complete DMR's.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Page 2, No. 2 PERMIT  
Description: Failure by the facility to contain a chlorine residual of at least 1.0 mg/l after a  
detention time of at least 20 minutes.

Date: 11/16/2009 (774950) CN600243315  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
TXR05Q332 Part III Section A(5)(b)(5) PERMIT  
Description: The WWTP has failed to develop specific spill prevention and cleanup  
techniques.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
TXR05Q332 Part III Section A(5)(b)(6&7) PERMIT  
Description: The WWTP has failed to maintain and have available equipment for spill cleanup.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
TXR05Q332 Part III Section A(5)(f) PERMIT  
Description: The WWTP has failed to conduct and document employee training for those  
responsible for implementing and/or maintaining activities in the SWP3 and storm  
water training for those employees not directly responsible for implementing or  
maintaining the SWP3.

Date: 03/22/2010 (796106) CN600243315  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
2D TWC Chapter 26, SubChapter A 26.121(b)  
2D TWC Chapter 26, SubChapter A 26.121(c)  
2D TWC Chapter 26, SubChapter A 26.121(d)  
2D TWC Chapter 26, SubChapter A 26.121(e)  
30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Permit Conditions, 2, g, pg. 7 PERMIT  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)(2)  
Description: Failure to prevent an unauthorized discharge at 1208 Wisconsin Street, Borger,  
Texas  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
Monitoring and Reporting, 7, b, i, pg 6 PERMIT  
Description: Failure to notify the TCEQ of an unauthorized discharge as permit required.

Date: 08/31/2011 (965881) CN600243315  
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 (971923) CN600243315  
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 (976969) CN600243315  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
2D TWC Chapter 26, SubChapter A 26.121(b)  
2D TWC Chapter 26, SubChapter A 26.121(c)  
2D TWC Chapter 26, SubChapter A 26.121(d)  
2D TWC Chapter 26, SubChapter A 26.121(e)  
30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Permit Conditions PERMIT  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)(2)  
Description: Failure to prevent unauthorized discharges in the collection system.

Date: 03/31/2012 (1010610) CN600243315  
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 (1016986) CN600243315  
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 BORGER  
RN102328499**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2012-1633-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Borger ("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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant at 1302 West Third Street in Borger, Hutchinson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 11, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Sixteen Thousand Six Hundred Dollars (\$16,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirteen Thousand Two Hundred Eighty Dollars (\$13,280) of the administrative penalty and Three Thousand Three Hundred Twenty Dollars (\$3,320) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010535001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 6, 2012, and as shown in the violation table below:

<b>Effluent Parameter Violation Table</b>		
	<b>Ammonia Nitrogen</b>	<b>Ammonia Nitrogen</b>
	Daily Average Concentration	Daily Maximum Concentration
<b>Month/Year</b>	Limit = 3 mg/L	Limit = 7 mg/L
August 2011	5.63	9.11
September 2011	4.12	10.1
March 2012	6.3	12.8
April 2012	7.1	15

c = compliant

mg/L = milligrams per liter

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Borger, Docket No. 2012-1633-MWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010535001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

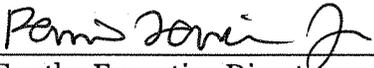
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## 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. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Borger

\_\_\_\_\_  
Title

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