Executive Summary – Enforcement Matter – Case No. 45098
McWane, Inc. dba Tyler Pipe Company
RN102679867
Docket No. 2012-2063-IWD-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
IWD
Small Business:
No
Location(s) Where Violation(s) Occurred:
Tyler Pipe, located north of the intersection of and between U.S. Highway 69 and Jim Hogg Highway (Old Lindale Highway), Swan, Smith County
Type of Operation:
Grey and ductile iron foundry
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: March 1, 2013
Comments Received: No

Penalty Information

Total Penalty Assessed: $24,675
Amount Deferred for Expedited Settlement: $4,935
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $19,740
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Satisfactory
Site/RN - Satisfactory
Major Source: Yes
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 45098
McWane, Inc. dba Tyler Pipe Company
RN102679867
Docket No. 2012-2063-IWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: September 5, 2012
Date(s) of NOE(s): September 21, 2012

Violation Information

1. Failed to comply with permitted effluent limits for total copper, total zinc and chemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001793000 Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 004].

2. Failed to collect and analyze samples for total cyanide, total sulfate, total cadmium, and total dissolved solids for the annual monitoring period ending August 31, 2011 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4, and TPDES Permit No. WQ0001793000 Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 001].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By September 15, 2011, Respondent updated the task management system at the Facility to ensure samples are collected and analyzed for the required effluent parameters.

Technical Requirements:

The Order will require Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0001793000, 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 limits.

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

Executive Summary – Enforcement Matter – Case No. 45098
McWane, Inc. dba Tyler Pipe Company
RN102679867
Docket No. 2012-2063-IWD-E

TCEQ Enforcement Coordinator: Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Greg Simmons, Assistant General Manager, McWane, Inc., 11910 County Road 492, Tyler, Texas 75706
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES **Assigned** 24-Sep-2012
PCW 2-Oct-2012 **Screening** 1-Oct-2012 **EPA Due** 5-Dec-2012

RESPONDENT/FACILITY INFORMATION

Respondent McWane, Inc. dba Tyler Pipe Company
Reg. Ent. Ref. No. RN102679867
Facility/Site Region 5-Tyler **Major/Minor Source** Major

CASE INFORMATION

Enf./Case ID No. 45098 **No. of Violations** 2
Docket No. 2012-2063-IWD-E **Order Type** 1660
Media Program(s) Water Quality **Government/Non-Profit** No
Multi-Media **Enf. Coordinator** Steve Villatoro
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*** **$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **102.0%** Enhancement ***Subtotals 2, 3, & 7*** **$5,100**

Notes: Enhancement for two months of self-reported effluent violations, one NOV with dissimilar violations, three orders with denial of liability, and one court order with denial of liability.

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*** **$625**

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

Total EB Amounts $1,159
Approx. Cost of Compliance $10,300

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 ***Final Subtotal*** **$9,475**

OTHER FACTORS AS JUSTICE MAY REQUIRE **2.1%** ***Adjustment*** **$200**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture avoided costs associated with Violation No. 2.

Final Penalty Amount **$9,675**

STATUTORY LIMIT ADJUSTMENT ***Final Assessed Penalty*** **$9,675**

DEFERRAL **20.0%** Reduction ***Adjustment*** **-$1,935**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$7,740**

Screening Date 1-Oct-2012 **Docket No.** 2012-2063-IWD-E **PCW**

Respondent McWane, Inc. dba Tyler Pipe Company *Policy Revision 2 (September 2002)*

Case ID No. 45098 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102679867

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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 (*number of NOVs meeting criteria*)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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	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 (*number of judgements or consent decrees meeting criteria*)	1	30%
	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 102%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two months of self-reported effluent violations, one NOV with dissimilar violations, three orders with denial of liability, and one court order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 102%

Screening Date 1-Oct-2012 **Docket No.** 2012-2063-IWD-E **PCW**

Respondent McWane, Inc. dba Tyler Pipe Company *Policy Revision 2 (September 2002)*

Case ID No. 45098 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102679867

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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. WQ0001793000 Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 001

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on September 5, 2012 and shown in the attached 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 total copper and total zinc 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 environmental receptors.

Adjustment $7,500

$2,500

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 $2,500

One quarterly event is recommended for the quarter containing the monitoring period of July 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

Estimated EB Amount $959

Statutory Limit Test

Violation Final Penalty Total $5,157

This violation Final Assessed Penalty (adjusted for limits) $5,157

Economic Benefit Worksheet

Respondent McWane, Inc. dba Tyler Pipe Company
Case ID No. 45098
Req. Ent. Reference No. RN102679867
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$10,000	31-Jul-2011	30-Jun-2013	1.92	$959	n/a	$959

Notes for DELAYED costs: Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first 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:

Approx. Cost of Compliance $10,000

TOTAL $959

Screening Date 1-Oct-2012 **Docket No.** 2012-2063-IWD-E **PCW**

Respondent McWane, Inc. dba Tyler Pipe Company *Policy Revision 2 (September 2002)*

Case ID No. 45098 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102679867

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code §§ 305.125(1) and 319.4, and TPDES Permit No. WQ0001793000 Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 001

Violation Description Failed to collect and analyze samples for total cyanide, total sulfate, total cadmium, and total dissolved solids for the annual monitoring period ending August 31, 2011, as documented during a record review conducted on September 5, 2012.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $2,500

One annual event is recommended.

Good Faith Efforts to Comply

25.0% Reduction $625

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

Notes: The Respondent returned to compliance by September 15, 2011.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $200

Statutory Limit Test

Violation Final Penalty Total $4,518

This violation Final Assessed Penalty (adjusted for limits) $4,518

Economic Benefit Worksheet

Respondent McWane, Inc. dba Tyler Pipe Company
Case ID No. 45098
Req. Ent. Reference No. RN102679867
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$100	31-Aug-2011	15-Sep-2011	0.04	$0	n/a	$0

Notes for DELAYED costs: Estimated costs to update operational guidance to ensure collection and analyzing of samples for all required parameters is conducted. Date required is the end of the monitoring period. 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]	$200	31-Aug-2011	1-Sep-2011	0.00	$0	$200	$200
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs: Estimated avoided cost to sample for missing parameters ($50/missing parameter). Date required is the end of the monitoring period. Final date is the next day.

Approx. Cost of Compliance $300

TOTAL $200

Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011) *PCW Revision August 3, 2011*

TCEQ

DATES					
Assigned	24-Sep-2012				
PCW	2-Oct-2012	Screening	1-Oct-2012	EPA Due	5-Dec-2012

RESPONDENT/FACILITY INFORMATION

Respondent	McWane, Inc. dba Tyler Pipe Company		
Reg. Ent. Ref. No.	RN102679867		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	45098	No. of Violations	1
Docket No.	2012-2063-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		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* $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 100.0% Enhancement *Subtotals 2, 3, & 7* $7,500

Notes: Enhancement for two months of self-reported effluent violations, one NOV with dissimilar violations, three orders with denial of liability, and one court order with denial of liability.

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* $15,000

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $15,000

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $15,000

DEFERRAL 20.0% Reduction *Adjustment* -$3,000

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $12,000

Screening Date 1-Oct-2011 **Docket No.** 2012-2063-IWD-E **PCW**

Respondent McWane, Inc. dba Tyler Pipe Company *Policy Revision 3 (September 2011)*

Case ID No. 45098 *PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN102679867

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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 (*number of NOVs meeting criteria*)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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	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 (*number of judgements or consent decrees meeting criteria*)	1	30%
	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 102%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two months of self-reported effluent violations, one NOV with dissimilar violations, three orders with denial of liability, and one court order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 102%

>> Final Compliance History Adjustment

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

Screening Date 1-Oct-2011 **Docket No.** 2012-2063-IWD-E **PCW**

Respondent McWane, Inc. dba Tyler Pipe Company *Policy Revision 3 (September 2011)*

Case ID No. 45098 *PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN102679867

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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. WQ0001793000 Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 004

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on September 5, 2012 and shown in the attached table.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: A simplified model was used to evaluate total copper to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Chemical oxygen demand was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events 2 — 62 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 monitoring periods of March 2012 and May 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

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $15,000

This violation Final Assessed Penalty (adjusted for limits) $15,000

Economic Benefit Worksheet

Respondent McWane, Inc. dba Tyler Pipe Company
Case ID No. 45098
Reg. Ent. Reference No. RN102679867
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

EFFLUENT VIOLATION TABLE				
McWane, Inc. dba Tyler Pipe Company				
TPDES Permit No. WQ0001793000				
Docket No. 2012-2063-IWD-E				
Months	Total Copper Daily Average Concentration	Total Copper Daily Maximum Concentration	Total Zinc Daily Maximum Concentration	COD Daily Maximum Concentration
	Limit = 0.0265 mg/L	Limit = 0.0561 mg/L	Limit = 0.451 mg/L	Limit = 400 mg/L
Outfall No. 004				
March 2012	n/a	n/a	n/a	407
Outfall No. 001				
July 2011	c	0.0627	0.82	n/a
March 2012	0.037	0.17	c	n/a
May 2012	0.0275	0.195	c	n/a

COD = chemical oxygen demand
c = compliant
mg/L = milligrams per liter
n/a = not applicable

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Compliance History Report

PENDING Compliance History Report for CN602243313, RN102679867, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN602243313, McWane, Inc. dba Tyler Pipe Company	**Classification:** SATISFACTORY	**Rating:** 10.86
Regulated Entity:	RN102679867, TYLER PIPE	**Classification:** SATISFACTORY	**Rating:** 10.86
Complexity Points:	25	**Repeat Violator:** NO	
CH Group:	14 - Other		
Location:	located north of the intersection of and between United States Highway 69 and Jim Hogg Highway (Old Lindale Highway) in the community of Swan, Smith County, Texas		
TCEQ Region:	REGION 05 - TYLER		

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER SK0041T
AIR OPERATING PERMITS PERMIT 1407
POLLUTION PREVENTION PLANNING ID NUMBER P00738
WASTEWATER PERMIT WQ0001793000
WASTEWATER EPA ID TX0001465
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 42476
AIR NEW SOURCE PERMITS PERMIT 4073
AIR NEW SOURCE PERMITS PERMIT 4246
AIR NEW SOURCE PERMITS PERMIT 7512
AIR NEW SOURCE PERMITS PERMIT 9425
AIR NEW SOURCE PERMITS REGISTRATION 10569
AIR NEW SOURCE PERMITS REGISTRATION 11209
AIR NEW SOURCE PERMITS REGISTRATION 14118
AIR NEW SOURCE PERMITS REGISTRATION 15584
AIR NEW SOURCE PERMITS REGISTRATION 17175
AIR NEW SOURCE PERMITS REGISTRATION 23831
AIR NEW SOURCE PERMITS REGISTRATION 23973
AIR NEW SOURCE PERMITS REGISTRATION 41902
AIR NEW SOURCE PERMITS REGISTRATION 49603
AIR NEW SOURCE PERMITS ACCOUNT NUMBER SK0041T
AIR NEW SOURCE PERMITS REGISTRATION 52208
AIR NEW SOURCE PERMITS REGISTRATION 52302
AIR NEW SOURCE PERMITS REGISTRATION 55428
AIR NEW SOURCE PERMITS REGISTRATION 76209
AIR NEW SOURCE PERMITS REGISTRATION 76210
AIR NEW SOURCE PERMITS AFS NUM 4842300004
AIR NEW SOURCE PERMITS PERMIT 70403
AIR NEW SOURCE PERMITS REGISTRATION 71019
AIR NEW SOURCE PERMITS REGISTRATION 54117
AIR NEW SOURCE PERMITS REGISTRATION 74036
AIR NEW SOURCE PERMITS REGISTRATION 74959
AIR NEW SOURCE PERMITS REGISTRATION 74795
AIR NEW SOURCE PERMITS REGISTRATION 74955
AIR NEW SOURCE PERMITS EPA ID PSDTX1046
AIR NEW SOURCE PERMITS REGISTRATION 78463
AIR NEW SOURCE PERMITS REGISTRATION 78855
AIR NEW SOURCE PERMITS REGISTRATION 81113
AIR NEW SOURCE PERMITS REGISTRATION 80981
AIR NEW SOURCE PERMITS REGISTRATION 81413
AIR NEW SOURCE PERMITS REGISTRATION 81945
AIR NEW SOURCE PERMITS REGISTRATION 82313
AIR NEW SOURCE PERMITS REGISTRATION 82672
AIR NEW SOURCE PERMITS REGISTRATION 95324
AIR NEW SOURCE PERMITS REGISTRATION 96580
AIR NEW SOURCE PERMITS REGISTRATION 102712
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2120023
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30140
AIR EMISSIONS INVENTORY ACCOUNT NUMBER SK0041T
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50141
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD066349770
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30140
STORMWATER PERMIT TXR05AK19
STORMWATER PERMIT TXR05AV56

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: September 26, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 25, 2007 to September 25, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: TCEQ Staff Member **Phone** (512) 239-4930

Site and Owner/Operator History:

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 for #2, who is the current owner/operator? N/A

4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 06/05/2008 ADMINORDER 2007-1417-AIR-E (1660 Order)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 9425/PSD-TX-1046 SC 1 PA
O-01407 STC 7 OP

Description: Failure to meet the maximum allowable emission rate (MAER) for the South Plant Cupola Baghouse (EPN ENB-2). Tyler Pipe reported that during a stack test on April 25 and 26, 2006 the CO emissions exceeded the allowable. NSR Permit 9425/PSD-TX-1046 authorizes CO emissions of 1.46 lb/hr. During the test, the CO emissions were 4.42 lbs/hr.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 9425/PSD-TX-1046 SC 1 PA
O-01407 STC 7 OP

Description: Failure to meet the maximum allowable emission rate (MAER) for the Vanaire Acid Scrubber (EPN E6-15-11). Tyler Pipe reported that on October 27, 2006, it was discovered that the scrubber pump was not operating for 4 hours. During the 4 hours, the emissions of triethylamine (TEA) were calculated at 57 lbs with an allowable of 0.02 lbs/hr of VOC.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(4)(C)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01407 STC 7 OP

Description: Failure to meet the maximum allowable emission rate of 0.25 lbs/hr of VOC emissions at the pattern shop. Tyler Pipe reported that on November 1, 2006 and April 17, 2007, the rate was exceeded by emitting 0.268 lbs/hr and 0.577 lbs/hr, respectively. 30 TAC 106.433(4)(C) [Permit by Rule] limits the emissions to 0.25 lbs/hr if the entity chooses not to register.

2 Effective Date: 10/06/2008 ADMINORDER 2008-0192-AIR-E (1660 Order)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP 0-01407 ST&C 7 NSR OP
NSR Permit No. 9425 S.C. 1 PERMIT

Description: Failure to control Volatile Organic Compounds (VOCs) emissions from the Impact FlexKleen Baghouse #2 (EPN E2-3-1) below the emission limit of 9.56 lbs/hr as listed in the Maximum Allowable Emissions Rate Table attached to TCEQ Air Quality Permit Numbers 9425 and PSD-TX-1046.

3 Effective Date: 12/04/2010 ADMINORDER 2010-0620-AIR-E (1660 Order)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)

Pending *Compliance History Report for CN602243313, RN102679867, Rating Year 2012 which includes Compliance History (CH) components from September 25, 2007, through September 25, 2012.*

30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP No. O-01407, General Terms and Cond. OP
FOP No. O-01407, Special Condition 7 OP
NSR Permit No. 70403 PERMIT

Description: Failed to comply with permitted emissions limits of 11.87 pounds per hour ("lbs/hr") of non-methane/non-ethane VOCs from the Fittings Casting/Cooling, Shell Core, Change Handling - South Stack, EPN E2-5-3. Specifically, during stack tests conducted October 15, 2008 and November 13, 2008, emissions were 35.65 lbs/hr and 58.42 lbs/hr, respectively.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP No. O-01407 OP
NSR Permit No. 70403 PERMIT

Description: Failed to comply with permitted emissions limits of 8.48 lbs/hr of non-methane/ non-ethane VOCs from the 40 Ton Furnace Baghouse exhaust, EPN E1-5-3. Specifically, during a stack test conducted October 14 and 15, 2008, emissions were 11.85 lbs/hr.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP No. O-01407 OP
NSR Permit No. 70403 PERMIT

Description: Failed to comply with permitted emissions limits of 0.78 lbs/hr of PM from the New Pipe Machine Regenerative Thermal Oxidizer Outlet Stack exhaust, EPN E1-43-3. Specifically, during a stack test conducted October 14 and 15, 2008, emissions were 0.81 lbs/hr.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP No. O-01407 OP

Description: Failed to report three deviations on the May 18, 2008 to November 18, 2008 semi-annual deviation report, and consequently failed to certify the deviations in the May 18, 2008 to May 17, 2009 annual compliance certification

See addendum for information regarding federal actions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	October 18, 2007	(607485)
Item 2	January 02, 2008	(924630)
Item 3	February 20, 2008	(924609)
Item 4	March 10, 2008	(638275)
Item 5	March 12, 2008	(637818)
Item 6	March 13, 2008	(619107)
Item 7	March 18, 2008	(924612)
Item 8	April 09, 2008	(641197)
Item 9	April 10, 2008	(641410)
Item 10	April 14, 2008	(924613)
Item 11	May 12, 2008	(641615)
Item 12	May 19, 2008	(924616)
Item 13	May 20, 2008	(653690)
Item 14	June 14, 2008	(453474)
Item 15	June 20, 2008	(924618)
Item 16	August 20, 2008	(924622)

Pending *Compliance History Report for CN602243313, RN102679867, Rating Year 2012 which includes Compliance History (CH) components from September 25; 2007, through September 25, 2012.*

Item 17	October 20, 2008	(924626)
Item 18	November 20, 2008	(924628)
Item 19	December 15, 2008	(924631)
Item 20	February 19, 2009	(924610)
Item 21	February 27, 2009	(736385)
Item 22	March 17, 2009	(924611)
Item 23	May 20, 2009	(924617)
Item 24	July 09, 2009	(761041)
Item 25	July 20, 2009	(924621)
Item 26	August 14, 2009	(924623)
Item 27	September 10, 2009	(766097)
Item 28	October 31, 2009	(924629)
Item 29	December 18, 2009	(924632)
Item 30	January 11, 2010	(785441)
Item 31	January 20, 2010	(804099)
Item 32	February 12, 2010	(804098)
Item 33	March 15, 2010	(795447)
Item 34	March 22, 2010	(830654)
Item 35	April 16, 2010	(860790)
Item 36	May 17, 2010	(830656)
Item 37	May 28, 2010	(803468)
Item 38	June 17, 2010	(846192)
Item 39	July 21, 2010	(841150)
Item 40	August 23, 2010	(866754)
Item 41	September 20, 2010	(873826)
Item 42	November 10, 2010	(881431)
Item 43	November 22, 2010	(877834)
Item 44	November 29, 2010	(877754)
Item 45	December 08, 2010	(887961)
Item 46	January 03, 2011	(886831)
Item 47	March 22, 2011	(916270)
Item 48	April 25, 2011	(952547)
Item 49	May 31, 2011	(937950)
Item 50	September 12, 2011	(952523)
Item 51	September 21, 2011	(965231)
Item 52	October 21, 2011	(971301)
Item 53	November 21, 2011	(977458)
Item 54	December 19, 2011	(984229)
Item 55	January 23, 2012	(990523)
Item 56	February 21, 2012	(997891)
Item 57	March 21, 2012	(1003405)
Item 58	May 17, 2012	(1016368)
Item 59	July 17, 2012	(1031490)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 03/31/2012 (1009971) CN602243313
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

2 Date: 05/23/2012 (1003006) CN602243313
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.1140
30 TAC Chapter 122, SubChapter B 122.145(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEEE 63.7710(b)(4)
5C THSC Chapter 382 382.085(b)
Special Condtiion 37 PERMIT
Special Terms and Condition 1.A OP

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Special Terms and Condition 1.D OP
Special Terms and Condition 9 OP

Description: Failure to conduct electronic drift checks of the Cupola Baghouse Leak Detection System.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.145(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(h)(5)(ii)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition 1.A OP

Description: Failure to conduct the minimum total opacity observations.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition No. 13C PERMIT
Special Terms and Condition 1.A OP
Special Terms and Condition 9 OP

Description: Failure to maintain a negative pressure in the North Plant Pipe Molding Area.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition No. 1 PERMIT
Special Terms and Condition 1.A OP
Special Terms and Condition 9 OP

Description: Failure to notify the TCEQ of a replacement of a Hot Dip Tanks at the Stationary Unit and Shuttle Machine.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.1140
30 TAC Chapter 122, SubChapter B 122.145(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEEE 63.7731(b)
5C THSC Chapter 382 382.085(b)
Special Condition NO. 37 PERMIT
Special Terms and Condition 1.A OP
Special Terms and Condition 1.D OP
Special Terms and Condition 9 OP

Description: Failure to complete the 6 month opacity observation within the 180 days of the previous opacity observation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition No. 17 PERMIT
Special Terms and Condition 9 OP
Special Terms and Conditions 1.A OP

Description: Failure to have sealed connections into the collection containers for all of the baghouse dust drop points.

3 Date: 05/31/2012 (1024092) CN602243313

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

Pending *Compliance History Report for CN602243313, RN102679867, Rating Year 2012 which includes Compliance History (CH) components from September 25, 2007, through September 25, 2012.*

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Pending *Compliance History Report for CN602243313, RN102679867, Rating Year 2012 which includes Compliance History (CH) components from September 25, 2007, through September 25, 2012.*

Addendum to Compliance History Federal Enforcement Actions

Reg Entity Name: TYLER PIPE COMPANY

Reg Entity Add: HWY. 69, 4 MILES N. OF LOOP 323

Reg Entity City: TYLER ***Reg Entity No:*** **RN102679867**

Customer Name: **Tyler Pipe** ***Customer No:*** **CN602243313**

EPA Case No: 06-2009-3400 ***Order Issue Date (yyyymmdd):*** 20100920

Case Result: Final Order With Penalty ***Statute:*** CAA ***Sect of Statute:*** 112D

Classification: Major ***Program:*** Gen Hazardous Waste M ***Citation:***

Violation Type: SIP - A1 Source ***Cite Sect:*** ***Cite Part:***

Enforcement Action: Non-Lead Participant

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING MCWANE, INC. DBA TYLER PIPE COMPANY RN102679867	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2012-2063-IWD-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 McWane, Inc. dba Tyler Pipe Company ("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 grey and ductile iron foundry located north of the intersection of and between United States Highway 69 and Jim Hogg Highway (Old Lindale Highway) in the community of Swan, Smith County, Texas (the "Facility").

2. The Respondent has discharged industrial 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 September 26, 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 Twenty-Four Thousand Six Hundred Seventy-Five Dollars ($24,675) is assessed by the Commission in settlement of the

violations alleged in Section II ("Allegations"). The Respondent has paid Nineteen Thousand Seven Hundred Forty Dollars ($19,740) of the administrative penalty and Four Thousand Nine Hundred Thirty-Five Dollars ($4,935) 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 recognizes that by September 15, 2011, the Respondent updated the task management system at the Facility to ensure samples are collected and analyzed for the required effluent parameters.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with 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. WQ0001793000 Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 004, as documented during a record review conducted on September 5, 2012 and shown in the table below:

EFFLUENT VIOLATION TABLE				
Months	**Total Copper Daily Average Concentration**	**Total Copper Daily Maximum Concentration**	**Total Zinc Daily Maximum Concentration**	**COD Daily Maximum Concentration**
	Limit = 0.0265 mg/L	**Limit = 0.0561 mg/L**	**Limit = 0.451 mg/L**	**Limit = 400 mg/L**
Outfall No. 004				
March 2012	**n/a**	**n/a**	**n/a**	**407**
Outfall No. 001				
July 2011	**c**	**0.0627**	**0.82**	**n/a**
March 2012	**0.037**	**0.17**	**c**	**n/a**
May 2012	**0.0275**	**0.195**	**c**	**n/a**

COD = chemical oxygen demand
c = compliant
mg/L = milligrams per liter
n/a = not applicable

2. Failed to collect and analyze samples for total cyanide, total sulfate, total cadmium, and total dissolved solids for the annual monitoring period ending August 31, 2011, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4, and TPDES Permit No. WQ0001793000 Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 001, as documented during a record review conducted on September 5, 2012.

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: McWane, Inc. dba Tyler Pipe Company, Docket No. 2-12-2063-IWD-E" to:

   Financial Administration Division, Revenue Operations 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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0001793000, 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 limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. 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 fine and imprisonment for knowing violations."

   The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph

exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 5/9/13
For the Executive Director 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.

_____ 4-9-13
Signature Date

Greg Simmons Assistant General Manager
Name (Printed or typed) Title
Authorized Representative of
McWane, Inc. dba Tyler Pipe Company

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.