

**Executive Summary – Enforcement Matter – Case No. 41459**

**City of Bynum**

**RN101612943**

**Docket No. 2011-0578-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 Bynum WWTP, located approximately 700 feet northeast of the intersection of State Highway 171 and Farm-to-Market Road 1242 in the southeastern portion of Bynum, Hill 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:** July 5, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,300

**Amount Deferred for Expedited Settlement:** \$1,660

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

**Total Paid to General Revenue:** \$6,640

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41459**

**City of Bynum**

**RN101612943**

**Docket No. 2011-0578-MWD-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** January 19, 2011 and April 4, 2011

**Date(s) of NOE(s):** March 23, 2011

***Violation Information***

1. Failed to maintain authorization for the discharge of wastewater. Specifically, Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011542001, which expired on December 1, 2010, and continued to discharge wastewater from the Facility without authorization [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2)].
2. Failed to pay outstanding Consolidated Water Quality Assessment fees for Account No. 23002893 for Fiscal Year 2011 [30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Immediately, until such time that authorization to operate is obtained, or until 330 days, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0011542001.
- b. Within 15 days, submit payment for all outstanding fees, including any associated penalties and interest.
- c. Within 30 days:
  - i. Submit written certification of compliance with Ordering Provision b.; and
  - ii. Submit an administratively complete permit application.
- d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.

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e. Within 330 days, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

***Litigation Information***

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

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

**SOAH Referral Date:** N/A

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

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

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

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Millie West, Mayor, City of Bynum, P.O. Box 8, Bynum, Texas 76631

**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>	28-Mar-2011	<b>Screening</b>	4-Apr-2011	<b>EPA Due</b>	
	<b>PCW</b>	4-Apr-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Bynum
<b>Reg. Ent. Ref. No.</b>	RN101612943
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41459	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-0578-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>	Heather Brister
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	66.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,300
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<b>Notes</b>	Enhancement for seven months of self-reported effluent violations, six NOV's with dissimilar violations, and two orders with denial of liability.		
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.		
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$541	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,300
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>			
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<b>Final Penalty Amount</b>	\$8,300
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,300
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$1,660
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral offered for expedited settlement.		
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<b>PAYABLE PENALTY</b>	\$6,640
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Screening Date 4-Apr-2011

Docket No. 2011-0578-MWD-E

PCW

Respondent City of Bynum

Policy Revision 2 (September 2002)

Case ID No. 41459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612943

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	13	26%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

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 seven months of self-reported effluent violations, six NOVs with dissimilar violations, and two orders with denial of liability.

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

Screening Date 4-Apr-2011

Docket No. 2011-0578-MWD-E

PCW

Respondent City of Bynum

Policy Revision 2 (September 2002)

Case ID No. 41459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612943

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code §§ 305.65 and 305.125(2)

Violation Description Failed to maintain authorization for the discharge of wastewater, as documented during an investigation conducted on January 19, 2011. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011542001, which expired on December 1, 2010, and continued to discharge wastewater from the Facility without authorization.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5 Number of violation days 124

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

Violation Base Penalty \$5,000

Five monthly events are recommended from the expiration date of the permit (December 1, 2010) to the screening date (April 4, 2011).

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$541 Violation Final Penalty Total \$8,300

This violation Final Assessed Penalty (adjusted for limits) \$8,300

## Economic Benefit Worksheet

**Respondent** City of Bynum  
**Case ID No.** 41459  
**Reg. Ent. Reference No.** RN101612943  
**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	\$10,000	1-Dec-2010	31-Dec-2011	1.08	\$541	n/a	\$541
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to prepare and submit a permit application to obtain authorization to discharge wastewater. Date required is the date the previous permit expired. Final date is the anticipated 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**

\$541

**Screening Date** 4-Apr-2011  
**Respondent** City of Bynum  
**Case ID No.** 41459  
**Reg. Ent. Reference No.** RN101612943  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Heather Brister  
**Violation Number** 2

**Docket No.** 2011-0578-MWD-E

**PCW**

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

**Rule Cite(s)** 30 Tex. Admin. Code § 21.4 and Tex. Water Code § 5.702

**Violation Description** Failed to pay outstanding Consolidated Water Quality (CWQ) Assessment fees for Account No. 23002893 for Fiscal Year 2011.

**Base Penalty** \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

**Adjustment** \$10,000

\$0

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

**Violation Base Penalty** \$0

No penalty is assessed for this violation, as penalty and interest will be assessed in the next billing cycle.

**Good Faith Efforts to Comply**

**0.0%** Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/> (mark with x)	

Notes

**Violation Subtotal** \$0

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$0

**This violation Final Assessed Penalty (adjusted for limits)** \$0

## Economic Benefit Worksheet

**Respondent** City of Bynum  
**Case ID No.** 41459  
**Reg. Ent. Reference No.** RN101612943  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

N/A

### 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

# Compliance History

Customer/Respondent/Owner-Operator:	CN600735831	City of Bynum	Classification: AVERAGE	Rating: 1.46
Regulated Entity:	RN101612943	CITY OF BYNUM WTP	Classification: AVERAGE	Site Rating: 1.46
ID Number(s):	WASTEWATER	WASTEWATER LICENSING	EPA ID	TX0069043
			LICENSE	WQ0011542001
Location:	Located approximately 700 feet northeast of the intersection of State Highway 171 and Farm-to-Market Road 1242 in the southeast portion of Bynum, Hill County, Texas.			

TCEQ Region: REGION 09 - WACO  
 Date Compliance History Prepared: April 04, 2011  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: April 04, 2006 to April 04, 2011  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Heather Brister Phone: (254) 761-3034

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period?       | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No  |
| 3. If Yes, who is the current owner/operator?  | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)?  | N/A |
| 5. When did the change(s) in owner or operator occur?  | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator: NO   |     |

### Components (Multimedia) for the Site :

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

Effective Date: 07/21/2008 ADMINORDER 2008-0045-MWD-E  
 Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: Effluent Limits PERMIT  
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 11/15/2010 ADMINORDER 2009-1406-MWD-E  
 Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Rqmt Prov: Operational Requirements PERMIT  
 Description: Failed to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or by retention of inadequately treated wastewater.

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

- |    |            |          |
|----|------------|----------|
| 1  | 02/16/2007 | (583735) |
| 2  | 04/17/2007 | (583737) |
| 3  | 04/17/2006 | (583738) |
| 4  | 04/19/2007 | (583739) |
| 5  | 05/25/2006 | (583740) |
| 6  | 05/14/2007 | (583741) |
| 7  | 06/26/2006 | (583742) |
| 8  | 08/07/2006 | (583743) |
| 9  | 07/06/2007 | (583744) |
| 10 | 11/16/2006 | (583745) |
| 11 | 11/16/2006 | (583746) |
| 12 | 01/12/2007 | (583747) |
| 13 | 11/13/2006 | (583749) |
| 14 | 11/16/2006 | (583751) |
| 15 | 01/08/2007 | (583753) |
| 16 | 01/12/2007 | (583755) |
| 17 | 12/29/2006 | (593297) |
| 18 | 07/06/2007 | (608400) |
| 19 | 09/20/2007 | (608401) |

20	09/20/2007	(608402)
21	12/21/2007	(612010)
22	10/11/2007	(622922)
23	12/19/2007	(622923)
24	12/19/2007	(622924)
25	12/18/2007	(635960)
26	02/26/2008	(674363)
27	03/20/2008	(674364)
28	02/01/2008	(674365)
29	05/06/2008	(692711)
30	05/28/2008	(692712)
31	07/15/2008	(692713)
32	08/21/2008	(713841)
33	10/06/2008	(713842)
34	10/06/2008	(713843)
35	10/17/2008	(713844)
36	02/26/2009	(724492)
37	12/01/2008	(729848)
38	01/20/2009	(729849)
39	01/20/2009	(729850)
40	03/31/2009	(739292)
41	04/27/2009	(742096)
42	04/24/2009	(743185)
43	09/18/2009	(761417)
44	07/24/2009	(761807)
45	04/29/2009	(770640)
46	04/29/2009	(770641)
47	04/29/2009	(770642)
48	03/16/2010	(811691)
49	04/30/2009	(811692)
50	12/04/2009	(811693)
51	12/04/2009	(811694)
52	12/04/2009	(811695)
53	12/04/2009	(811696)
54	12/10/2009	(811697)
55	03/22/2010	(811698)
56	03/22/2010	(811699)
57	03/05/2010	(827876)
58	03/22/2010	(833300)
59	05/31/2010	(833301)
60	05/31/2010	(833302)
61	11/23/2009	(869858)
62	11/03/2010	(882340)
63	11/03/2010	(882341)
64	11/03/2010	(882342)
65	11/03/2010	(882344)
66	11/03/2010	(882345)
67	03/22/2011	(892653)
68	01/19/2011	(897155)
69	01/19/2011	(897156)

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

Date:	<b>12/29/2006</b>	(593297)	CN600735831	
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:	<b>08/31/2007</b>	(608402)	CN600735831	
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: **09/30/2007** (622922) CN600735831  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: **12/18/2007** (635960) CN600735831  
 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: **03/31/2008** (692711) CN600735831  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2008** (692712) CN600735831  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: **02/27/2009** (724492) CN600735831  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Operational Requirements; No. 1, Pg. 9 PERMIT  
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.11(d)  
 Monitoring Requirements; No. 2, Pg. 4 PERMIT  
 Description: Failure to comply with procedures specified in 30 TAC 319.11 - 319.12.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)  
 Monitoring Requirements; No. 2, Pg. 4 PERMIT  
 Description: Failure to comply with procedures specified in 30 TAC 319.11 - 319.12.

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

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Permit Conditions; No. 1(a), Pg. 7 PERMIT  
 Description: Failure to correctly report sludge disposal methods to the Commission.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Sludge Provisions; Section II F, Pg. 19 PERMIT  
 Description: Failure to maintain records of monitoring information related to sewage sludge use and disposal activities for a period of at least five years.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Permit Conditions; No. 1(a), Pg. 7 PERMIT  
Description: Failure to correctly report the treatment units to the Commission.

Date 04/23/2009 (743185) CN600735831  
Self Report? NO Classification Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements PERMIT  
Description: Failed to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or by retention of inadequately treated wastewater.

Date 11/23/2009 (869858) CN600735831  
Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

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

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 03/05/2010 (827876) CN600735831  
Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

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

Date 03/31/2010 (833301) CN600735831  
Self Report? YES Classification Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date 06/30/2010 (882341) CN600735831  
Self Report? YES Classification Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date 09/30/2010 (882345) CN600735831  
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 BYNUM  
RN101612943**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0578-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Bynum ("the Respondent") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 700 feet northeast of the intersection of State Highway 171 and Farm-to-Market Road 1242, in the southeastern portion of Bynum, Hill County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission 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 March 28, 2011.
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 Eight Thousand Three Hundred Dollars (\$8,300) is assessed by the Commission in settlement of the violations alleged in Section

- II ("Allegations"). The Respondent has paid Six Thousand Six Hundred Forty Dollars (\$6,640) of the administrative penalty and One Thousand Six Hundred Sixty Dollars (\$1,660) 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 of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  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:

1. Failed to maintain authorization for the discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), as documented during an investigation conducted on January 19, 2011. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011542001, which expired on December 1, 2010, and continued to discharge wastewater from the Facility without authorization.
2. Failed to pay outstanding Consolidated Water Quality Assessment fees for Account No. 23002893 for Fiscal Year 2011, in violation of 30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702, as documented during a record review conducted on April 4, 2011.

## 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 Bynum, Docket No. 2011-0578-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 undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 330 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0011542001;
  - b. Within 15 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest, with the notation "City of Bynum - Account No. 23002893" to:

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

- c. Within 30 days after the effective date of this Agreed Order:
  - i. Submit written certification of compliance with Ordering Provision No. 2.b, in accordance with Ordering Provision No. 2.e below; and
  - ii. Submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE ch. 305 (relating to Consolidated Permits) to:

Texas Commission on Environmental Quality  
Water Quality Division  
Applications Review and Processing Team, MC148  
P.O. Box 13087  
Austin, Texas 78711-3087

- d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
- e. Within 330 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

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. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Perm Davis  
For the Executive Director

7/23/13  
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.

Millie West  
Signature

7-20-11  
Date

Millie West  
Name (Printed or typed)  
Authorized Representative of  
City of Bynum

Mayor  
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.