

**Executive Summary – Enforcement Matter – Case No. 46939**

**City of Kemp**

**RN102218435**

**Docket No. 2013-1041-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 Kemp WWTF, located approximately 0.8 mile west-southwest of the intersection of State Route 274 and U.S. Route 175, approximately 1.5 miles southwest of Kemp, Kaufman County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 4, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,920

**Amount Deferred for Expedited Settlement:** \$1,584

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

**Total Paid to General Revenue:** \$6,336

**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:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

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

**Complaint Information:** N/A

**Executive Summary – Enforcement Matter – Case No. 46939**  
**City of Kemp**  
**RN102218435**  
**Docket No. 2013-1041-MWD-E**

**Date(s) of Investigation:** April 12, 2013

**Date(s) of NOE(s):** April 22, 2013

***Violation Information***

1. Failed to comply with permitted limits for carbonaceous biochemical oxygen demand, ammonia nitrogen, total suspended solids, and total residual chlorine [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010695001 Effluent Limitations and Monitoring Requirements Nos. 1 and 2].
2. Failed to timely submit effluent monitoring results at the intervals specified in the permit. Specifically, Respondent did not submit the discharge monitoring report ("DMR") for the monitoring period ending November 30, 2012, until May 7, 2013 [30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. WQ0010695001 Monitoring and Reporting Requirements No. 1].
3. Failed to timely submit the annual sludge monitoring report for the monitoring period ending July 31, 2012 [30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. WQ0010695001 Sludge Provisions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

- a. By May 7, 2013, submitted the DMR for the monitoring period ending November 30, 2012; and
- b. By April 30, 2013, submitted the annual sludge report for the monitoring period ending July 31, 2012.

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the submittal of signed and certified monthly DMRs and annual sludge reports;
- b. Within 45 days, submit written certification of compliance with Ordering Provision a.; and

**Executive Summary – Enforcement Matter – Case No. 46939**  
**City of Kemp**  
**RN102218435**  
**Docket No. 2013-1041-MWD-E**

c. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010695001, including specific correction actions that were implemented at the facility to achieve compliance and copies of the most current DMRs, demonstrating at least three consecutive months of compliance with all permitted limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** James Whitehead, City Manager, City of Kemp, P. O. Box 449, Kemp, Texas 75143  
The Honorable Laura Hanna Peace, Mayor, City of Kemp, P. O. Box 449, Kemp, Texas 75143  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	13-May-2013	<b>Screening</b>	23-May-2013	<b>EPA Due</b>	
	<b>PCW</b>	24-May-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Kemp
<b>Reg. Ent. Ref. No.</b>	RN102218435
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	46939	<b>No. of Violations</b>	3
<b>Docket No.</b>	2013-1041-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>	Harvey Wilson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,500
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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>	44.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,420
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Notes: Enhancement for one agreed order without denial, two NOV's with dissimilar violations, and three months of self reported effluent violations.

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

<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 \$1,011  
Approx. Cost of Compliance \$10,325  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,920
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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.

Notes:

<b>Final Penalty Amount</b>	\$7,920
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,920
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,584
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,336
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Screening Date 23-May-2013

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PCW

Respondent City of Kemp

Policy Revision 3 (September 2011)

Case ID No. 46939

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102218435

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

### 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> )	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 44%

>> 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 one agreed order without denial, two NOVs with dissimilar violations, and three months of self reported effluent violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 44%

>> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 44%

Screening Date 23-May-2013

Docket No. 2013-1041-MWD-E

PCW

Respondent City of Kemp

Policy Revision 3 (September 2011)

Case ID No. 46939

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102218435

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010695001 Effluent Limitations and Monitoring Requirements Nos. 1 and 2.

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on April 12, 2013. (see attached table).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	5.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes A simplified model was used to evaluate carbonaceous biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids and total residual chlorine were 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 that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4 152 Number of violation days

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

Violation Base Penalty \$5,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,000

Violation Final Penalty Total \$7,200

This violation Final Assessed Penalty (adjusted for limits) \$7,200

# Economic Benefit Worksheet

**Respondent** City of Kemp  
**Case ID No.** 46939  
**Reg. Ent. Reference No.** RN102218435  
**Media** Water Quality  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	29-Feb-2012	28-Feb-2014	2.00	\$1,000	n/a	\$1,000

Notes for DELAYED costs

The estimated cost of replacing the pump and removing the grit and dirt buildup from the Influent pit. Date Required is the date the violation began. Final Date is the estimated date of compliance.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**

\$1,000

**Screening Date** 23-May-2013  
**Respondent** City of Kemp  
**Case ID No.** 46939  
**Reg. Ent. Reference No.** RN102218435  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Harvey Wilson

**Docket No.** 2013-1041-MWD-E

**PCW**

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**Violation Number** 2

**Rule Cite(s)**

30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. WQ0010695001  
Monitoring and Reporting Requirements No. 1

**Violation Description**

Failed to timely submit effluent monitoring results at the intervals specified in the permit. Specifically, the Respondent did not submit the discharge monitoring report for the monitoring period ending November 30, 2012 until May 7, 2013.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
			X	1.0%

**Matrix Notes**

Less than 30% of the rule requirement was not met.

**Adjustment** \$24,750

\$250

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty** \$250

One single event is recommended

**Good Faith Efforts to Comply**

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

**Violation Subtotal** \$250

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

**Statutory Limit Test**

**Estimated EB Amount** \$9

**Violation Final Penalty Total** \$360

**This violation Final Assessed Penalty (adjusted for limits)** \$360

# Economic Benefit Worksheet

**Respondent** City of Kemp  
**Case ID No.** 46939  
**Reg. Ent. Reference No.** RN102218435  
**Media** Water Quality  
**Violation No.** 2

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$25	20-Dec-2012	7-May-2013	0.38	\$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)	\$250	12-Apr-2013	31-Dec-2013	0.72	\$9	n/a	\$9

**Notes for DELAYED costs**

The estimated cost of preparing and submitting the discharge monitoring report and to update the operational guidance and conduct employee training. Dates Required are the date the first report was due and the record review date. Final Dates are the dates the report was submitted and the estimated compliance date of the training requirement.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$275

**TOTAL**

\$9

Screening Date 23-May-2013

Docket No. 2013-1041-MWD-E

PCW

Respondent City of Kemp

Policy Revision 3 (September 2011)

Case ID No. 46939

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102218435

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. WQ0010695001 Sludge Provisions

Violation Description Failed to timely submit the annual sludge monitoring report for the monitoring period ending July 31, 2012 by September 30, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1.0%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 212

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

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$360

This violation Final Assessed Penalty (adjusted for limits) \$360

# Economic Benefit Worksheet

**Respondent** City of Kemp  
**Case ID No.** 46939  
**Reg. Ent. Reference No.** RN102218435  
**Media** Water Quality  
**Violation No.** 3

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$50	30-Sep-2012	30-Apr-2013	0.58	\$1	n/a	\$1

**Notes for DELAYED costs**   The estimated cost of preparing and submitting the annual sludge report. Date Required is the date the report was due. Final Date is the date the report was submitted. See economic benefit for violation no. 2 for training requirement.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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   \$50

**TOTAL**   \$1



City of Kemp  
Docket No. 2013-1041-MWD-E  
TPDES Permit No. WQ0010695001  
Violation Table

Date	CBOD Daily Average Conc. 5 mg/L	CBOD Single Grab Conc. 30 mg/L	CBOD Daily Average Loading 15 lb/d	Ammonia Nitrogen Daily Average Conc. 2 mg/L	Ammonia Nitrogen Single Grab Conc. 15 mg/L	Total Suspended Solids Daily Average Conc. 5 mg/L	Total Suspended Solids Single Grab Conc. 30 mg/L	Total Chlorine Residual Max. Daily Average Conc. 4 mg/L
February 2012	C	C	C	C	C	9	C	C
Apr 2012	C	C	C	C	C	C	C	4.1
July 2012	5.5	C	C	C	C	C	C	C
October 2012	17.7	49	17.9	6	26.5	7	C	4.2
January 2013	C	C	C	C	C	9.2	36	C
CBOD = Carbonaceous Biochemical Oxygen Demand      Conc. = concentration      mg/L = milligrams per liter lb/d = pounds per day      C = compliant      Max. = maximum								



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# Compliance History Report

**PUBLISHED** Compliance History Report for CN600681027, RN102218435, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600681027, City of Kemp **Classification:** SATISFACTORY **Rating:** 11.13  
**Regulated Entity:** RN102218435, CITY OF KEMP **Classification:** SATISFACTORY **Rating:** 11.13  
**Complexity Points:** 5 **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** approximately 0.8 mile west-southwest of the intersection of State Route 274 and United States Route 175, approximately 1.5 miles southwest of the City of Kemp in Kaufman County, Texas  
**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**  
**WASTEWATER PERMIT** WQ0010695001 **WASTEWATER EPA ID** TX0023396  
**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012  
**Date Compliance History Report Prepared:** May 23, 2013  
**Agency Decision Requiring Compliance History:** Enforcement  
**Component Period Selected:** May 23, 2008 to May 23, 2013

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

**Name:** Harvey Wilson **Phone** (512) 239-0321

### 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: 05/09/2010 ADMINORDER 2009-0964-MWD-E (Findings Order-Agreed Order Without Denial)  
Classification: Major  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov OP 3 ORDER  
Description: Failure to comply with the permitted effluent limits of TPDES Permit No. WQ0010695001. Failure to comply with Ordering Provision No. 3 of Agreed Order Docket No. 2007-0256-MWD-E.

#### B. Criminal convictions:

N/A

#### C. Chronic excessive emissions events:

N/A

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

Item 1	July 16, 2008	(690662)
Item 2	December 12, 2008	(728044)
Item 3	August 19, 2009	(925400)
Item 4	September 15, 2009	(925401)
Item 5	October 16, 2009	(925402)
Item 6	November 18, 2009	(925403)
Item 7	December 22, 2009	(783920)
Item 8	March 18, 2010	(925396)
Item 9	April 20, 2010	(925397)
Item 10	May 17, 2010	(925399)
Item 11	June 16, 2010	(846460)
Item 12	July 15, 2010	(861028)
Item 13	August 19, 2010	(867055)
Item 14	September 08, 2010	(874102)
Item 15	October 21, 2010	(881715)
Item 16	November 22, 2010	(888223)
Item 17	December 16, 2010	(896476)
Item 18	January 10, 2011	(902511)
Item 19	February 21, 2011	(909290)
Item 20	April 20, 2011	(925398)
Item 21	May 26, 2011	(938232)
Item 22	July 25, 2011	(952850)
Item 23	August 17, 2011	(959516)
Item 24	September 14, 2011	(965551)
Item 25	October 11, 2011	(971591)
Item 26	November 15, 2011	(977757)
Item 27	December 21, 2011	(984523)
Item 28	January 17, 2012	(990811)
Item 29	April 19, 2012	(1010269)
Item 30	June 19, 2012	(1024395)
Item 31	August 01, 2012	(1031776)
Item 32	October 18, 2012	(1046896)
Item 33	November 12, 2012	(1061738)
Item 34	February 20, 2013	(1079416)
Item 35	March 20, 2013	(1089521)
Item 36	April 30, 2013	(1089522)

**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:	07/05/2012 (1013262)	CN600681027
	Self Report?	NO	Classification: Minor
	Citation:	30 TAC Chapter 217, SubChapter C 217.63(b) 30 TAC Chapter 217, SubChapter C 217.63(c)	
	Description:	Failure to install an audiovisual alarm system as required for lift stations.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 217, SubChapter C 217.61 30 TAC Chapter 317 317.3(c)	
	Description:	Failure to have two functioning pumps installed as required.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 217, SubChapter C 217.60(d) 30 TAC Chapter 217, SubChapter C 217.60(d)(1) 30 TAC Chapter 217, SubChapter C 217.60(d)(1)(A) 30 TAC Chapter 217, SubChapter C 217.60(d)(1)(B) 30 TAC Chapter 217, SubChapter C 217.60(d)(1)(C) 30 TAC Chapter 217, SubChapter C 217.60(d)(1)(D) 30 TAC Chapter 217, SubChapter C 217.60(d)(1)(E)	
	Description:	Failure to install a passive ventilation system in accordance with lift station design criteria.	

2	Date: 07/31/2012 (1046895)	CN600681027	
	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		
3	Date: 10/31/2012 (1061739)	CN600681027	
	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		
4	Date: 01/22/2013 (1054172)	CN600681027	
	Self Report? NO	Classification:	Minor
	Citation: 30 TAC Chapter 319, SubChapter C 319.302(c)		
	Description: Failure to provide the required public notification of a spill or accidental discharge of untreated domestic wastewater in a timely manner.		
5	Date: 01/31/2013 (1079415)	CN600681027	
	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

**Published** Compliance History Report for CN600681027, RN102218435, Rating Year 2012 which includes Compliance History (CH) components from May 23, 2008, through May 23, 2013.



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF KEMP  
RN102218435**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2013-1041-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

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

1. The Respondent owns and operates a wastewater treatment facility located approximately 0.8 mile west-southwest of the intersection of State Route 274 and United States Route 175, approximately 1.5 miles southwest of Kemp in Kaufman County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 27, 2013.
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 Seven Thousand Nine Hundred Twenty Dollars (\$7,920) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Three Hundred Thirty-Six Dollars (\$6,336) of the administrative penalty and One Thousand Five Hundred Eighty-Four Dollars (\$1,584) 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 the Respondent has implemented the following corrective measures:
  - a. By May 7, 2013, submitted the discharge monitoring report ("DMR") for the monitoring period ending November 30, 2012; and
  - b. By April 30, 2013, submitted the annual sludge report for the monitoring period ending July 31, 2012.
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 limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010695001 Effluent Limitations and Monitoring

Requirements Nos. 1 and 2, as documented during a record review on April 12, 2013, and shown in the table below:

Date	CBOD Daily Average Conc. 5 mg/L	CBOD Single Grab Conc. 30 mg/L	CBOD Daily Average Loading 15 lb/d	Ammonia Nitrogen Daily Average Conc. 2 mg/L	Ammonia Nitrogen Single Grab Conc. 15 mg/L	Total Suspended Solids Daily Average Conc. 5 mg/L	Total Suspended Solids Single Grab Conc. 30 mg/L	Total Chlorine Residual Max. Daily Average Conc. 4 mg/L
February 2012	C	C	C	C	C	9	C	C
Apr 2012	C	C	C	C	C	C	C	4.1
July 2012	5.5	C	C	C	C	C	C	C
October 2012	17.7	49	17.9	6	26.5	7	C	4.2
January 2013	C	C	C	C	C	9.2	36	C
CBOD = Carbonaceous Biochemical Oxygen Demand      Conc. = concentration      mg/L = milligrams per liter lb/d = pounds per day      C = compliant      Max. = maximum								

2. Failed to timely submit effluent monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. WQ0010695001 Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on April 12, 2013. Specifically, the Respondent did not submit the DMR for the monitoring period ending November 30, 2012, until May 7, 2013.
  
3. Failed to timely submit the annual sludge monitoring report for the monitoring period ending July 31, 2012, in violation of 30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. WQ0010695001 Sludge Provisions, as documented during a record review conducted on April 12, 2013.

### 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 Kemp, Docket No. 2013-1041-MWD-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 the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the submittal of signed and certified monthly DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0010695001;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. as described in Ordering Provision No. 2.c. below; and
  - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010695001, including specific correction actions that were implemented at the facility to achieve compliance and copies of the most current DMRs, demonstrating at least three consecutive months of compliance with all permitted limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language;

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

Each 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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

*Pam Mann*  
For the Executive Director

11/18/13  
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.

*James Whitehead*  
Signature

10-30-2013  
Date

James Whitehead  
Name (Printed or typed)  
Authorized Representative of  
City of Kemp

City Manager  
Title

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