

**Executive Summary – Enforcement Matter – Case No. 45198**  
**City of Shamrock**  
**RN101609063**  
**Docket No. 2012-2061-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

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

North WWTP, located approximately 1.6 miles north-northwest of the intersection of U.S. Highway 83 and IH-40 on the north side of Shamrock, Wheeler 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:** September 6, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$10,251

**Amount Deferred for Expedited Settlement:** \$2,050

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

**Total Paid to General Revenue:** \$8,201

**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 - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

Executive Summary – Enforcement Matter – Case No. 45198  
City of Shamrock  
RN101609063  
Docket No. 2012-2061-MWD-E

*Investigation Information*

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

**Complaint Information:** N/A

**Date(s) of Investigation:** July 30, 2012

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

*Violation Information*

1. Failed to ensure that the Facility and all its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, there was excessive plant growth around the effluent lagoons and growth of a tree along the embankment of the west lagoon [30 TEX. ADMIN. CODE § 305.125(5) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010279003, Operational Requirements No. 1].
2. Failed to employ or contract with a Category D or higher licensed wastewater treatment operator. Specifically, it was documented that an unlicensed individual was performing process control duties at the Facility [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TCEQ Permit No. WQ0010279003, Special Provisions No. 2].
3. Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows by a trained person at Facility start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually. Specifically, a calibrated inline propeller flow meter was replaced on July 18, 2012, approximately 20 months after the prior meter was installed on November 19, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(d) and TCEQ Permit No. WQ0010279003, Monitoring Requirements No. 5].
4. Failed to comply with permitted effluent limitations. Specifically, a single grab sample collected during the month of September 2011 had a pH value of 10.1 standard units. The permitted effluent limit for pH is 10.0 standard units [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0010279003, Effluent Limitations and Monitoring Requirements].

*Corrective Actions/Technical Requirements*

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

- a. By December 31, 2011, adjusted treatment processes and demonstrated consistent compliance with all permitted effluent limits; and
- b. On July 18, 2012, a calibrated flow meter was installed.

**Executive Summary – Enforcement Matter – Case No. 45198**  
**City of Shamrock**  
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**Docket No. 2012-2061-MWD-E**

**Technical Requirements:**

The Order will require Respondent to:

a. Within 30 days:

i. Employ or contract with an individual that holds a Category D or higher wastewater treatment operator's license to operate the Facility; and

ii. Ensure that the Facility and all its systems of collection, treatment, and disposal are properly operated and maintained, including but not limited to, removing excessive plant growth from the area surrounding the effluent lagoons. Respondent shall also ensure that removal of any vegetation does not compromise the integrity of the lagoon liners.

b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

***Litigation Information***

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

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

**SOAH Referral Date:** N/A

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

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** 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:** David Rushing, City Manager, City of Shamrock, 116 West 2nd Street, Shamrock, Texas 79079

The Honorable Buck Weatherby, Mayor, City of Shamrock, 116 West 2nd Street, Shamrock, Texas 79079

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	Assigned	10-Sep-2012	Screening	28-Sep-2012	EPA Due	
	PCW	18-Oct-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Shamrock		
Reg. Ent. Ref. No.	RN101609063		
Facility/Site Region	1-Amarillo	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	45198	No. of Violations	4
Docket No.	2012-2061-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$10,750**

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

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

**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** **\$499**

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

Total EB Amounts	\$266	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,036	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$10,251**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$10,251**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$10,251**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$2,050**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$8,201**

Screening Date 28-Sep-2012

Docket No. 2012-2061-MWD-E

PCW

Respondent City of Shamrock

Policy Revision 3 (September 2011)

Case ID No. 45198

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609063

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

### 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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%

Screening Date 28-Sep-2012

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PCW

Respondent City of Shamrock

Policy Revision 3 (September 2011)

Case ID No. 45198

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609063

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010279003, Operational Requirements No. 1

Violation Description Failed to ensure that the Facility and all its systems of collection, treatment, and disposal are properly operated and maintained, as documented during an investigation conducted on July 30, 2012. Specifically, there was excessive plant growth around the effluent lagoons and growth of a tree along the embankment of the west lagoon.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5.0%). An 'x' is marked in the Moderate Harm column under Potential Release.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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 the environment as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 60

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

Violation Base Penalty \$1,250

One quarterly event is recommended, calculated from the date of the investigation, July 30, 2012, to the date of screening, September 28, 2012.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

# Economic Benefit Worksheet

**Respondent** City of Shamrock  
**Case ID No.** 45198  
**Reg. Ent. Reference No.** RN101609063  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$500	30-Jul-2012	1-Apr-2013	0.67	\$17	n/a	\$17

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to remove overgrown vegetation from around the lagoons, calculated from the date of the investigation to the estimated 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

\$500
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**TOTAL**

\$17
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Screening Date 28-Sep-2012

Docket No. 2012-2061-MWD-E

PCW

Respondent City of Shamrock

Policy Revision 3 (September 2011)

Case ID No. 45198

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609063

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d) and 305.125(1) and TCEQ Permit No. WQ0010279003, Special Provisions No. 2

Violation Description Failed to employ or contract with a Category D or higher licensed wastewater treatment operator, as documented during an investigation conducted on July 30, 2012. Specifically, it was documented that an unlicensed individual was performing process control duties at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	X			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Operating the Facility without an operator may not allow for the proper maintenance and operation of the Facility's equipment. As a result, human health and the environment will or could be exposed to pollutants which would exceed protective levels.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 60

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Two monthly events are recommended, calculated from the date of the investigation, July 30, 2012, to the date of screening, September 28, 2012.

Good Faith Efforts to Comply

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

Notes

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$196

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

# Economic Benefit Worksheet

**Respondent** City of Shamrock  
**Case ID No.** 45198  
**Reg. Ent. Reference No.** RN101609063  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**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)	\$186	30-Jul-2012	28-Sep-2012	1.08	\$10	\$186	\$196

Notes for AVOIDED costs

Costs avoided by failing to have the Facility's operator properly licensed. Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance

\$186

**TOTAL**

\$196

Screening Date 28-Sep-2012

Docket No. 2012-2061-MWD-E

PCW

Respondent City of Shamrock

Policy Revision 3 (September 2011)

Case ID No. 45198

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609063

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.11(d) and TCEQ Permit No. WQ0010279003, Monitoring Requirements No. 5

Violation Description

Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows by a trained person at Facility start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually, as documented during an investigation conducted on July 30, 2012. Specifically, a calibrated inline propeller flow meter was replaced on July 18, 2012, approximately 20 months after the prior meter was installed on November 19, 2010.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

240 Number of violation days

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

Violation Base Penalty \$750

One annual event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$187

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

Notes The Respondent achieved compliance on July 18, 2012.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$563

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

# Economic Benefit Worksheet

**Respondent** City of Shamrock  
**Case ID No.** 45198  
**Reg. Ent. Reference No.** RN101609063  
**Media** Water Quality  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$850	19-Nov-2011	18-Jul-2012	0.66	\$28	n/a	\$28

**Notes for DELAYED costs**  
 The delayed cost includes the estimated amount necessary to replace the flow meter with a properly calibrated unit, calculated from the date that the meter was due to be replaced or calibrated to 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance	\$850	<b>TOTAL</b>	\$28
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Screening Date 28-Sep-2012

Docket No. 2012-2061-MWD-E

PCW

Respondent City of Shamrock

Policy Revision 3 (September 2011)

Case ID No. 45198

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609063

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 4

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0010279003, Effluent Limitations and Monitoring Requirements

Violation Description Failed to comply with permitted effluent limitations, as documented in an investigation conducted on July 30, 2012. Specifically, a single grab sample collected during the month of September 2011 had a pH value of 10.1 standard units. The permitted effluent limit for pH is 10.0 standard units.

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

pH was evaluated to determine whether the amounts of pollutants exceeded levels protective of human health and the environment. As a result of the exceedance, human health or the environment has been exposed to an insignificant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 30 Number of violation days

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

Violation Base Penalty \$1,250

One quarterly event is recommended.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent achieved compliance on December 31, 2011.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Estimated EB Amount \$25

Statutory Limit Test

Violation Final Penalty Total \$938

This violation Final Assessed Penalty (adjusted for limits) \$938

# Economic Benefit Worksheet

**Respondent** City of Shamrock  
**Case ID No.** 45198  
**Reg. Ent. Reference No.** RN101609063  
**Media** Water Quality  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$1,500	1-Sep-2011	31-Dec-2011	0.33	\$25	n/a	\$25

**Notes for DELAYED costs**

The delayed costs include the estimated amount necessary to make adjustments to the treatment process to lower the pH level, calculated from the first day of the month of the exceedence to 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
<b>ONE-TIME avoided costs [3]</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$1,500
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**TOTAL**

\$25
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The TCEQ is committed to accessibility.

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## TCEQ Compliance History Report

**PENDING** Compliance History Report for CN600638829, RN101609063, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600638829, City Of Shamrock      **Classification:** SATISFACTORY      **Rating:** 0.27

**Regulated Entity:** RN101609063, NORTH WWTP      **Classification:** HIGH      **Rating:** 0.00

**Complexity Points:** 4      **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** LOCATED APPROXIMATELY 1.6 MILES N NW OF THE INTERSECTION OF US HIGHWAY 83 AND INTERSTATE HIGHWAY 40 ON THE N SIDE OF SHAMROCK, WHEELER COUNTY, TX

**TCEQ Region:** REGION 01 - AMARILLO

**ID Number(s):** WASTEWATER LICENSING LICENSE WQ0010279003

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

**Date Compliance History Report Prepared:** October 11, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 11, 2007 to October 11, 2012

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

**Name:** Stephen Thompson

**Phone:** (512) 239-2558

### 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:**

N/A

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

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

Item 1	March 06, 2008	(616787)
Item 2	May 18, 2009	(745613)

#### **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.

N/A

**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 SHAMROCK  
RN101609063**

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

## **AGREED ORDER DOCKET NO. 2012-2061-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 Shamrock ("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 approximately 1.6 miles north-northwest of the intersection of United States Highway 83 and Interstate Highway 40 on the north side of Shamrock in Wheeler County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE ch. 26.001(5).
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 11, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Two Hundred Fifty-One Dollars (\$10,251) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Two Hundred One

Dollars (\$8,201) of the administrative penalty and Two Thousand Fifty Dollars (\$2,050) 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 following corrective measures have been implemented at the Facility:
  - a. By December 31, 2011, the Respondent adjusted treatment processes and demonstrated consistent compliance with all permitted effluent limits; and
  - b. On July 18, 2012, a calibrated flow meter was installed.
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 ensure that the Facility and all its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010279003, Operational Requirements No. 1, as documented during an investigation conducted on July 30, 2012. Specifically, there was excessive plant growth around the effluent lagoons and growth of a tree along the embankment of the west lagoon.
2. Failed to employ or contract with a Category D or higher licensed wastewater treatment operator, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TCEQ Permit No. WQ0010279003, Special Provisions No. 2, as documented during an

investigation conducted on July 30, 2012. Specifically, it was documented that an unlicensed individual was performing process control duties at the Facility.

3. Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows by a trained person at Facility start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(d) and TCEQ Permit No. WQ0010279003, Monitoring Requirements No. 5, as documented during an investigation conducted on July 30, 2012. Specifically, a calibrated inline propeller flow meter was replaced on July 18, 2012, approximately 20 months after the prior meter was installed on November 19, 2010.
4. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0010279003, Effluent Limitations and Monitoring Requirements, as documented in an investigation conducted on July 30, 2012. Specifically, a single grab sample collected during the month of September 2011 had a pH value of 10.1 standard units. The permitted effluent limit for pH is 10.0 standard units.

### 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 Shamrock, Docket No. 2012-2061-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:
    - i. Employ or contract with an individual that holds a Category D or higher wastewater treatment operator's license to operate the Facility, in

accordance with 30 TEX. ADMIN. CODE §§ 30.350 and 305.125 and TCEQ Permit No. WQ0010279003; and

- ii. Ensure that the Facility and all its systems of collection, treatment, and disposal are properly operated and maintained, including but not limited to, removing excessive plant growth from the area surrounding the effluent lagoons. The Respondent shall also ensure that removal of any vegetation does not compromise the integrity of the lagoon liners, in accordance with 30 TEX. ADMIN. CODE § 305.125 and TCEQ Permit No. WQ0010279003.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent

shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Pam Young  
For the Executive Director

11/1/13  
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.

David Rushing  
Signature

3-27-13  
Date

David Rushing  
Name (Printed or typed)  
Authorized Representative of  
City of Shamrock

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.