

Executive Summary – Enforcement Matter – Case No. 45279

Town of Mustang

RN102807864

Docket No. 2012-2160-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Town of Mustang MHP, located 800 feet east of IH-45 on Farm-to-Market Road 739, Navarro 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: June 6, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$25,012

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$104

Total Due to General Revenue: \$24,908

Payment Plan: 11 payments of \$100 each then 24 payments of \$992 each

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 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 45279
Town of Mustang
RN102807864
Docket No. 2012-2160-MWD-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 4, 2012 and October 11, 2012

Date(s) of NOE(s): April 20, 2012

Violation Information

1. Failed to comply with permitted effluent limitations for final day biochemical oxygen demand, flow, dissolved oxygen, pH and total suspended solids[TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011516001 Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].

2. Failed to pay the administrative penalty assessed in Agreed Order Docket No. 2007-0407-MWD-E [TEX. WATER CODE § 7.061].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days, pay the outstanding administrative penalty assessed for Agreed Order Docket No. 2007-0407-MWD-E; and

b. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011516001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported Discharge Monitoring Reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 45279

Town of Mustang

RN102807864

Docket No. 2012-2160-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division,
Enforcement Team 1, MC R-15, (956) 430-6023; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Thomas Bancroft, Mayor, Town of Mustang, P.O. Box
325, Corsicana, Texas 75151

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Apr-2012	Screening	30-May-2012	EPA Due	
	PCW	2-Apr-2014				

RESPONDENT/FACILITY INFORMATION			
Respondent	Town of Mustang		
Reg. Ent. Ref. No.	RN102807864		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	45279	No. of Violations	2
Docket No.	2012-2160-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **45.0%** Enhancement **Subtotals 2, 3, & 7** **\$450**

Notes Enhancement for an order without a denial of liability and four months of self-reported effluent violations.

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

Notes The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts **\$1,592**
 Approx. Cost of Compliance **\$10,000**
 *Capped at the Total EB \$ Amount

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$1,450**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,450**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$1,450**

Screening Date 30-May-2012

Docket No. 2012-2160-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 2 (September 2002)

Case ID No. 45279

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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>)	4	20%
	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	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%

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) 45%

>> 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 an order without a denial of liability and four months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 30-May-2012
Respondent Town of Mustang
Case ID No. 45279
Reg. Ent. Reference No. RN102807864
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves
Violation Number 1

Docket No. 2012-2160-MWD-E

PCW

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

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011516001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on April 4, 2012, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	10%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes 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 as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended for the quarter containing the months of March 2011 and May 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,592

Violation Final Penalty Total \$1,450

This violation Final Assessed Penalty (adjusted for limits) \$1,450

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 45279
Reg. Ent. Reference No. RN102807864
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$10,000	31-Mar-2011	8-Jul-2013	2.27	\$76	\$1,516	\$1,592
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 Estimated costs to evaluate the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. 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	\$1,592
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Screening Date 30-May-2012
Respondent Town of Mustang
Case ID No. 45279
Reg. Ent. Reference No. RN102807864
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves

Docket No. 2012-2160-MWD-E

PCW

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

Violation Number
Rule Cite(s)

Tex. Water Code § 7.061

Violation Description

Failed to pay the administrative penalty assessed in Agreed Order Docket No. 2007-0407-MWD-E.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 45279
Reg. Ent. Reference No. RN102807864
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-Apr-2012	Screening	30-May-2012	EPA Due	
	PCW	2-Apr-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	Town of Mustang
Reg. Ent. Ref. No.	RN102807864
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	45279	No. of Violations	2
Docket No.	2012-2160-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$16,250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 45.0% Enhancement **Subtotals 2, 3, & 7** \$7,312

Notes: Enhancement for an order without a denial of liability and four months of self-reported effluent violations.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$23,562

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$23,562

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$23,562

DEFERRAL 0.0% Reduction **Adjustment** \$0

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$23,562

Screening Date 30-May-2012

Docket No. 2012-2160-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 3 (September 2011)

Case ID No. 45279

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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>)	4	20%
	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	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%

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) 45%

>> **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 an order without a denial of liability and four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 45%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 45%

Screening Date 30-May-2012
Respondent Town of Mustang
Case ID No. 45279
Reg. Ent. Reference No. RN102807864
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves
Violation Number 1

Docket No. 2012-2160-MWD-E

PCW

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

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011516001 Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on April 4, 2012, and shown in the attached violation table.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			30.0%
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate 5-day biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow, pH, and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events: 2 61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two monthly events are recommended for the months of October 2011 and November 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$21,750

This violation Final Assessed Penalty (adjusted for limits) \$21,750

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 45279
Reg. Ent. Reference No. RN102807864
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

See economic benefit for Violation no. 1 on accompanying PCW.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 30-May-2012
Respondent Town of Mustang
Case ID No. 45279
Reg. Ent. Reference No. RN102807864
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves
Violation Number 2
Rule Cite(s)

Docket No. 2012-2160-MWD-E

PCW

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

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES
 Permit No. WQ0011516001 Effluent Limitations and Monitoring Requirements No. 6

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on April 4, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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 as a result of the violation.

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 for the quarter containing the month of September 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,813

This violation Final Assessed Penalty (adjusted for limits) \$1,813

Economic Benefit Worksheet

Respondent Town of Mustang
Case ID No. 45279
Reg. Ent. Reference No. RN102807864
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

See economic benefit for Violation No. 1 on accompanying PCW.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

EFFLUENT VIOLATION TABLE								
Town of Mustang								
TPDES Permit No. WQ0011516001								
Docket No. 2012-2160-MWD-E								
Months	BOD ₅ Daily Avg. Conc.	BOD ₅ Single Grab	BOD ₅ Daily Avg. Loading	Flow Daily Avg.	Dissolved Oxygen Monthly Min.	pH Min.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	Limit = 20 mg/L	Limit = 65 mg/L	Limit = 1.7 lbs/day	Limit = .01 MGD	Limit = 3 mg/L	Limit = 6 SU	Limit = 20 mg/L	Limit = 1.7 mg/L
March 2011	c	c	c	c	c	c	23.2	c
May 2011	c	c	c	0.015	c	c	c	c
September 2011	c	c	c	c	2.8	c	c	c
October 2011	c	c	2.62	0.017	c	c	c	c
November 2011	41.3	87	4.48	0.013	c	5.4	22.3	2.4

BOD₅ = Biochemical Oxygen Demand (5-day)
TSS = Total Suspended Solids
mg/L = milligrams per liter
lbs/day = pounds per day
MGD = Million Gallons per Day

Conc. = Concentration
Avg. = Average
Min. = Minimum
SU = Standard Units
c = compliant



Compliance History Report

PUBLISHED Compliance History Report for CN600796221, RN102807864, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600796221, Town of Mustang	Classification: SATISFACTORY	Rating: 44.80
Regulated Entity:	RN102807864, TOWN OF MUSTANG MHP	Classification: SATISFACTORY	Rating: 44.80
Complexity Points:	6	Repeat Violator:	NO
CH Group:	08 - Sewage Treatment Facilities		
Location:	LOCATED 800 FEET EAST OF INTERSTATE HIGHWAY 45 ON FARM-TO-MARKET ROAD 739, NAVARRO COUNTY, TEXAS		
TCEQ Region:	REGION 04 - DFW METROPLEX		
ID Number(s):			
WASTEWATER PERMIT WQ0011516001	WASTEWATER EPA ID TX0125199		
WASTEWATER LICENSING LICENSE WQ0011516001			
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year: 2012	Rating Date: 09/01/2012
Date Compliance History Report Prepared:	January 03, 2013		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	January 03, 2008 to January 03, 2013		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	JR Cao	Phone	(512) 239-2543

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: 03/23/2009 | ADMINORDER 2007-0407-MWD-E (Findings Order-Agreed Order Without Denial) |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 305, SubChapter F 305.125(17) | |
| | Rqmt Prov: Sludge Provisions PERMIT | |
| | Description: Failure to submit an annual sludge report by September 1, 2006. | |
| | Classification: Minor | |
| | Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| | Rqmt Prov: Monitoring and Reporting Requirement 5 PERMIT | |
| | Description: Failure to have flow measuring device(s) properly installed, operated, and maintained, included being tested annually by a certified technician. | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| | TWC Chapter 26 26.121(a) | |
| | Rqmt Prov: Effluent Limitations and Monitoring Requ PERMIT | |
| | Description: Failed to comply with permit effluent limits for biochemical oxygen demand (5-Day) ("BOD5"), total suspended solids ("TSS"), flow, and chlorine residual ("Cl2"). | |
| | Classification: Moderate | |

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: Monitoring and Reporting Requirements 7 PERMIT
 Description: Failure to provide noncompliance notification as required.
 Classification: Major

Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)
 30 TAC Chapter 30, SubChapter J 30.350(d)
 Description: Failure to ensure an adequately licensed individual to operate the Facility.
 Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121

Description: Failure to prevent unauthorized discharges.
 Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
 Description: Failure to notify the TCEQ of any unauthorized discharges.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	January 21, 2008	(677783)
Item 2	August 28, 2009	(821003)
Item 3	October 19, 2009	(821006)
Item 4	October 27, 2009	(821009)
Item 5	November 02, 2010	(870683)
Item 6	January 18, 2011	(898314)
Item 7	May 25, 2011	(940049)
Item 8	September 23, 2011	(967405)
Item 9	December 01, 2011	(970095)
Item 10	February 24, 2012	(992697)
Item 11	February 27, 2012	(1000035)
Item 12	May 25, 2012	(1018497)

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: 02/29/2012 (1018496)	CN600796221	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 04/30/2012 (1018498)	CN600796221	
	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: 05/31/2012 (1033558)	CN600796221	
	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: 06/30/2012 (1033559)	CN600796221	
	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
TOWN OF MUSTANG
RN102807864

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

AGREED ORDER
DOCKET NO. 2012-2160-MWD-E

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 Town of Mustang ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located 800 feet east of Interstate Highway 45 on Farm-to-Market Road 739 in Navarro 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. During a record review conducted on April 4, 2012, TCEQ staff documented the following from self-reported monthly discharge monitoring reports ("DMRs"):

EFFLUENT VIOLATION TABLE								
Months	BOD ₅ Daily Avg. Conc.	BOD ₅ Single Grab	BOD ₅ Daily Avg. Loading	Flow Daily Avg.	Dissolved Oxygen Monthly Min.	pH Min.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	Limit = 20 mg/L	Limit = 65 mg/L	Limit = 1.7 lbs/day	Limit = .01 MGD	Limit = 3 mg/L	Limit = 6 SU	Limit = 20 mg/L	Limit = 1.7 mg/L
March 2011	c	c	c	c	c	c	23.2	c
May 2011	c	c	c	0.015	c	c	c	c
September 2011	c	c	c	c	2.8	c	c	c
October 2011	c	c	2.62	0.017	c	c	c	c
November 2011	41.3	87	4.48	0.013	c	5.4	22.3	2.4

BOD₅ = Biochemical Oxygen Demand (5-day)

TSS = Total Suspended Solids

mg/L = milligrams per liter

lbs/day = pounds per day

MGD = Million Gallons per Day

Conc. = Concentration

Avg. = Average

Min. = Minimum

SU = Standard Units

c = compliant

4. During a record review conducted on October 11, 2012, TCEQ staff documented that the Respondent has not paid the administrative penalty assessed in Agreed Order Docket No. 2007-0407-MWD-E.
5. The Respondent received notice of the violations on October 23, 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent 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 Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011516001 Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to pay the administrative penalty assessed in Agreed Order Docket No. 2007-0407-MWD-E, in violation of TEX. WATER CODE § 7.061.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Twenty-Five Thousand Twelve Dollars (\$25,012) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid One Hundred Four Dollars (\$104) of the administrative penalty. The remaining amount of Twenty-Four Thousand Nine Hundred Eight Dollars (\$24,908) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Dollars (\$100) for 11 months each and Nine Hundred Ninety-Two Dollars (\$992) for 24 months each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Five Thousand Twelve Dollars (\$25,012) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.

Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Town of Mustang, Docket No. 2012-2160-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. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, pay the outstanding administrative penalty assessed for Agreed Order Docket No. 2007-0407-MWD-E;
 - b. 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. WQ0011516001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, in accordance with Ordering Provision No. 2.c below; and
 - c. The certification required by Ordering Provision No. 2.b 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
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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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,

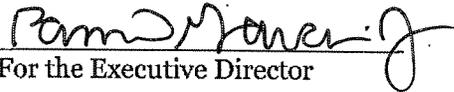
including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

7/18/14
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the Town of Mustang. I am authorized to agree to the attached Agreed Order on behalf of the Town of Mustang, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the Town of Mustang waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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


Signature

4/28/14
Date

THOMAS BANCROFT
Name (Printed or typed)
Authorized Representative of
Town of Mustang

Mayor
Title

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