

Executive Summary – Enforcement Matter – Case No. 48551

City of Pharr

RN102928041

Docket No. 2014-0531-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Pharr WWTP, located adjacent to South "I" Road, approximately 1.9 miles south of the intersection of South "I" Road and U.S. Highway 83 Business, Hidalgo County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: July 4, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$876

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$876

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 48551
City of Pharr
RN102928041
Docket No. 2014-0531-MWD-E**

Investigation Information

Complaint Date(s): December 31, 2013

Complaint Information: Alleged there was a leaking sewer main in a yard. The problem has been occurring for several years including a large nuisance of sewage overflow in the neighborhood.

Date(s) of Investigation: January 2, 2014 through January 27, 2014

Date(s) of NOE(s): April 4, 2014

Violation Information

Failed to prevent the unauthorized discharge of untreated wastewater from the collection system [TEX. WATER CODE § 26.121(a)(1) and Texas Pollutant Discharge Elimination System Permit No. WQ0010596001 Permit Conditions No. 2.g.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By January 22, 2014, the Respondent vacuumed the spill with a Vactor truck, applied high test hypochlorite to disinfect the area, unclogged the line to prevent recurrence, and replaced the concrete manhole cover to provide a better seal.

Technical Requirements:

N/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: 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: David Garza, Assistant City Manager, City of Pharr, P.O. Box 1729, Pharr, Texas 78577

The Honorable Leopoldo Palacios, Mayor, City of Pharr, P.O. Box 1729, Pharr, Texas 78577

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	7-Apr-2014	Screening	10-Apr-2014	EPA Due	
	PCW	6-May-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Pharr		
Reg. Ent. Ref. No.	RN102928041		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	48551	No. of Violations	1
Docket No.	2014-0531-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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Enhancement for one NOV with same/similar violations and reduction for high performer classification.

Culpability Enhancement **Subtotal 4**

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$0
Approx. Cost of Compliance	\$818

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 10-Apr-2014

Docket No. 2014-0531-MWD-E

PCW

Respondent City of Pharr

Policy Revision 4 (April 2014)

Case ID No. 48551

PCW Revision March 25, 2014

Reg. Ent. Reference No. RN102928041

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>)	1	5%
	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 judgments 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

Enhancement for one NOV with same/similar violations and reduction for high performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 10-Apr-2014

Docket No. 2014-0531-MWD-E

PCW

Respondent City of Pharr

Policy Revision 4 (April 2014)

Case ID No. 48551

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102928041

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010596001 Permit Conditions No. 2.g

Violation Description Failed to prevent the unauthorized discharge of untreated wastewater from the collection system. Specifically, on January 22, 2014, an unauthorized discharge of approximately 200 gallons of untreated wastewater from a clogged line occurred. The unauthorized discharge flowed from under the sidewalk adjacent to a manhole in the 5500 block of Huisache Avenue.

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 Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

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 \$312

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent came into compliance by January 22, 2014.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$876

This violation Final Assessed Penalty (adjusted for limits) \$876

Economic Benefit Worksheet

Respondent City of Pharr
Case ID No. 48551
Reg. Ent. Reference No. RN102928041
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

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)	\$818	22-Jan-2014	22-Jan-2014	0.00	\$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

Actual cost to vacuum the spill with a Vactor truck, apply high test hypochlorite to disinfect the area, unclog the line to prevent recurrence, and replace the concrete manhole cover to provide a better seal. Date required is the date of the unauthorized discharge. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$818

TOTAL \$0



Compliance History Report

PUBLISHED Compliance History Report for CN600245898, RN102928041, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN600245898, City of Pharr	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102928041, CITY OF PHARR WASTEWATER TREATMENT PLANT	Classification: HIGH	Rating: 0.00
Complexity Points:	10	Repeat Violator:	NO
CH Group:	08 - Sewage Treatment Facilities		
Location:	ADJ TO S "I" RD, APPROX 1.9 M S OF THE INTX OF S "I" RD AND US HWY 83 BUSINESS IN HIDALGO CO, TX		
TCEQ Region:	REGION 15 - HARLINGEN		
ID Number(s):			
WASTEWATER PERMIT WQ0010596001	WASTEWATER EPA ID TX0062219		
WASTEWATER AUTHORIZATION R10596001	WASTEWATER LICENSING LICENSE WQ0010596001		
Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year: 2013	Rating Date: 09/01/2013
Date Compliance History Report Prepared:	April 08, 2014		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	April 08, 2009 to April 08, 2014		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Jennifer Graves	Phone:	(956) 430-6023

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	May 13, 2009	(770427)
Item 2	June 09, 2009	(770428)
Item 3	August 12, 2009	(927321)
Item 4	September 10, 2009	(927322)
Item 5	September 22, 2009	(927323)
Item 6	November 20, 2009	(927324)
Item 7	December 21, 2009	(810870)
Item 8	January 18, 2010	(810871)

Item 9	February 15, 2010	(810869)
Item 10	March 17, 2010	(833039)
Item 11	April 20, 2010	(833040)
Item 12	May 20, 2010	(833041)
Item 13	June 15, 2010	(846939)
Item 14	July 13, 2010	(861436)
Item 15	August 13, 2010	(867694)
Item 16	August 19, 2010	(960051)
Item 17	September 20, 2010	(874665)
Item 18	October 12, 2010	(882248)
Item 19	November 17, 2010	(888715)
Item 20	December 20, 2010	(897061)
Item 21	January 18, 2011	(902979)
Item 22	February 19, 2011	(909849)
Item 23	March 09, 2011	(917088)
Item 24	April 15, 2011	(927320)
Item 25	May 19, 2011	(938783)
Item 26	June 20, 2011	(946151)
Item 27	July 19, 2011	(953418)
Item 28	September 16, 2011	(966102)
Item 29	October 20, 2011	(972127)
Item 30	November 15, 2011	(978288)
Item 31	December 06, 2011	(985088)
Item 32	January 16, 2012	(991366)
Item 33	February 09, 2012	(998724)
Item 34	March 20, 2012	(1004249)
Item 35	April 05, 2012	(1010814)
Item 36	May 10, 2012	(1017189)
Item 37	June 13, 2012	(1024970)
Item 38	July 02, 2012	(1032319)
Item 39	August 23, 2012	(1038743)
Item 40	September 13, 2012	(1047624)
Item 41	October 12, 2012	(1064854)
Item 42	November 15, 2012	(1064855)
Item 43	December 12, 2012	(1064856)
Item 44	January 15, 2013	(1080645)
Item 45	February 12, 2013	(1080644)
Item 46	March 07, 2013	(1090099)
Item 47	March 14, 2013	(1096482)
Item 48	May 09, 2013	(1107433)
Item 49	June 14, 2013	(1111082)
Item 50	July 17, 2013	(1117969)
Item 51	August 19, 2013	(1125772)
Item 52	September 06, 2013	(1130319)
Item 53	October 18, 2013	(1136089)
Item 54	November 14, 2013	(1141464)
Item 55	December 13, 2013	(1147920)
Item 56	January 07, 2014	(1153995)

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: 12/09/2013 (1122374) CN600245898
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: The regulated entity failed to comply with all permit conditions as listed in Water Quality Permit WQ10596001, Permit Conditions, Section 2, (g) there shall be no unauthorized discharge of wastewater or any other waste

F. Environmental audits:

Published Compliance History Report for CN600245898, RN102928041, Rating Year 2013 which includes Compliance History (CH) components from April 08, 2009, through April 08, 2014.

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 4/8/2009 and 4/8/2014

- 1 Date: 11/13/2009 (777693) CN600245898
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Cond. Pg. 7 PERMIT
Description: Failure to prevent the discharge of untreated wastewater. Specifically, City of Pharr self-reported two incidents of sanitary sewer overflows (not including those related to Hurricane Dolly) since last CCI on Feb 29, 2008 and May 11, 2009.
- 2 Date: 04/11/2011 (905458) CN600245898
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to prevent an unauthorized discharge of wastewater into or adjacent to waters of the state, under WQ0010596001, Permit Conditions, Section 2, (g).
- 3 Date: 05/19/2011 (887041) CN600245898
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)
2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)
2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TPDES Permit No. WQ0010596001 PERMIT
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)
Description: Failure to prevent an unauthorized discharge of wastewater, under TPDES Permit No. WQ0010596001, Permit Conditions, (2) (g).
- 4 Date: 10/07/2011 (948280) CN600245898
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions.
- 5 Date: 11/10/2011 (956187) CN600245898
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions.
- 6 Date: 08/10/2012 (1016041) CN600245898
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)

2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)
2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
Permit Conditions, 2. Compliance, g., PERMIT
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to any waters in the state.

7 Date: 12/09/2013 (1122374) CN600245898
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: The regulated entity failed to comply with all permit conditions as listed in Water Quality Permit WQ10596001, Permit Conditions, Section 2, (g) there shall be no unauthorized discharge of wastewater or any other waste

* NOVs applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

Appendix B**All Investigations Conducted During Component Period April 08, 2009 and April 08, 2014**

Item 1*	May 13, 2009**	(770427)
Item 2*	June 09, 2009**	(770428)
Item 3*	August 12, 2009**	(927321)
Item 4*	September 10, 2009**	(927322)
Item 5*	September 22, 2009**	(927323)
Item 6	November 13, 2009**	(777693)
Item 7*	November 20, 2009**	(927324)
Item 8*	December 21, 2009**	(810870)
Item 9*	January 18, 2010**	(810871)
Item 10*	February 15, 2010**	(810869)
Item 11*	March 17, 2010**	(833039)
Item 12*	April 20, 2010**	(833040)
Item 13*	May 20, 2010**	(833041)
Item 14*	June 15, 2010**	(846939)
Item 15*	July 13, 2010**	(861436)
Item 16*	August 13, 2010**	(867694)
Item 17*	August 19, 2010**	(960051)
Item 18*	September 20, 2010**	(874665)
Item 19*	October 12, 2010**	(882248)
Item 20*	November 17, 2010**	(888715)
Item 21*	December 20, 2010**	(897061)
Item 22*	January 18, 2011**	(902979)
Item 23*	February 19, 2011**	(909849)
Item 24*	March 09, 2011**	(917088)
Item 25*	April 15, 2011**	(927320)
Item 26*	May 19, 2011**	(938783)
Item 27*	June 20, 2011**	(946151)
Item 28*	July 19, 2011**	(953418)
Item 29*	September 16, 2011**	(966102)
Item 30*	October 20, 2011**	(972127)
Item 31*	November 15, 2011**	(978288)
Item 32*	December 06, 2011**	(985088)
Item 33*	January 16, 2012**	(991366)
Item 34*	February 09, 2012**	(998724)
Item 35*	March 20, 2012**	(1004249)
Item 36*	April 05, 2012**	(1010814)
Item 37*	May 10, 2012**	(1017189)
Item 38*	June 13, 2012**	(1024970)
Item 39*	July 02, 2012**	(1032319)
Item 40	August 08, 2012**	(1016041)

Item 41*	August 23, 2012**	(1038743)
Item 42*	September 13, 2012**	(1047624)
Item 43*	October 12, 2012**	(1064854)
Item 44*	November 15, 2012**	(1064855)
Item 45*	December 12, 2012**	(1064856)
Item 46*	January 15, 2013**	(1080645)
Item 47*	February 12, 2013**	(1080644)
Item 48*	March 07, 2013**	(1090099)
Item 49*	March 14, 2013**	(1096482)
Item 50*	May 09, 2013**	(1107433)
Item 51*	June 14, 2013**	(1111082)
Item 52*	July 17, 2013**	(1117969)
Item 53*	August 19, 2013**	(1125772)
Item 54*	September 06, 2013	(1130319)
Item 55*	October 18, 2013	(1136089)
Item 56*	November 14, 2013	(1141464)
Item 57*	December 13, 2013	(1147920)
Item 58*	January 07, 2014	(1153995)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PHARR
RN102928041**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0531-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 City of Pharr ("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 plant located adjacent to South "I" Road, approximately 1.9 miles south of the intersection of South "I" Road and United States Highway 83 Business in Hidalgo 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 an investigation conducted from January 2, 2014 through January 27, 2014, TCEQ staff documented that on January 22, 2014, an unauthorized discharge of approximately 200 gallons of untreated wastewater from a clogged line occurred. The unauthorized discharge flowed from under the sidewalk adjacent to a manhole in the 5500 block of Huisache Avenue.
4. The Respondent received notice of the violations on April 8, 2014.
5. The Executive Director recognizes that by January 22, 2014, the Respondent vacuumed the spill with a Vactor truck, applied high test hypochlorite to disinfect the area, unclogged the line to prevent recurrence, and replaced the concrete manhole cover to provide a better seal.

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 prevent the unauthorized discharge of untreated wastewater from the collection system, in violation of TEX. WATER CODE § 26.121(a)(1) and Texas Pollutant Discharge Elimination System Permit No. WQ0010596001 Permit Conditions No. 2.g.
3. 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.
4. An administrative penalty in the amount of Eight Hundred Seventy-Six Dollars (\$876) 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 the Eight Hundred Seventy-Six Dollar (\$876) administrative penalty.

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 Eight Hundred Seventy-Six Dollars (\$876) as set forth in Section II, Paragraph 4 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: City of Pharr, Docket No. 2014-0531-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 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.
3. 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.
4. 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.
5. 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.
6. 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.

7. 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

8/11/14
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Pharr. I am authorized to agree to the attached Agreed Order on behalf of the City of Pharr, 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 City of Pharr 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

5/28/14
Date

DAVID GARZA
Name (Printed or typed)
Authorized Representative of
City of Pharr

Asst 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 III, Paragraph 1 of this Agreed Order.