

Executive Summary – Enforcement Matter – Case No. 48695
Brownsville Public Utility Board
RN102180205
Docket No. 2014-0701-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Brownsville PUB Robindale WWTP, located at 3208 Robindale Road, adjacent to and east of Robindale Road, approximately half mile north of the intersection of Robindale Road and Farm-to-Market Road 802, Cameron County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 17, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$55,688

Amount Deferred for Expedited Settlement: \$11,137

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$44,551

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 48695
Brownsville Public Utility Board
RN102180205
Docket No. 2014-0701-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 9, 2014
Date(s) of NOE(s): April 24, 2014

Violation Information

1. Failed to achieve compliance with the interim phase construction schedule. Specifically, the Respondent did not complete construction by August 6, 2013 [30 TEX. ADMIN. CODE § 305.125(1) and (18), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010397005, Other Requirements No. 3].
2. Failed to comply with permitted effluent limitations for 5-day biochemical oxygen demand, total suspended solids, ammonia nitrogen, and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0010397005, Interim I and II Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By April 23, 2014, the Respondent completed the interim phase expansion project construction activities at the Facility.

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010397005, 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

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Brownsville Public Utility Board
RN102180205
Docket No. 2014-0701-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Remington Burklund, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2611; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Albert Gomez Jr. P.E., Director of Environmental Services, Brownsville Public Utility Board, P.O. Box 3270, Brownsville, Texas 78523

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	28-Apr-2014	Screening	13-May-2014	EPA Due	5-Jun-2014
	PCW	2-Sep-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Brownsville Public Utility Board		
Reg. Ent. Ref. No.	RN102180205		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48695	No. of Violations	3	
Docket No.	2014-0701-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	Yes	
Multi-Media		Enf. Coordinator	Remington Burklund	
		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 \$45,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 30.0% Enhancement Subtotals 2, 3, & 7 \$13,500

Notes: Enhancement for five months of self-reported effluent violations and one NOV with same/similar 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 -\$2,812

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$1,614,639
Approx. Cost of Compliance	\$32,373,888

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$55,688

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$55,688

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$55,688

DEFERRAL 20.0% Reduction Adjustment -\$11,137

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 \$44,551

Screening Date 13-May-2014

Docket No. 2014-0701-MWD-E

PCW

Respondent Brownsville Public Utility Board

Policy Revision 4 (April 2014)

Case ID No. 48695

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102180205

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

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>)	6	30%
	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%

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) 30%

>> 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 five months of self-reported effluent violations and one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 13-May-2014
 Respondent Brownsville Public Utility Board
 Case ID No. 48695

Docket No. 2014-0701-MWD-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102180205
 Media [Statute] Water Quality
 Enf. Coordinator Remington Burklund
 Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (18), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010397005, Other Requirements No. 3

Violation Description Failed to achieve compliance with the interim phase construction schedule, as documented during a record review conducted on April 9, 2014. Specifically, the Respondent did not complete construction by August 6, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

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 environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 259 Number of violation days

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

Violation Base Penalty \$11,250

Three quarterly events are recommended calculated from the initial date of noncompliance (August 7, 2013) to the date of compliance (April 23, 2014).

Good Faith Efforts to Comply

25.0% Reduction

\$2,812

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

Notes The Respondent returned to compliance by April 23, 2014.

Violation Subtotal \$8,438

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,613,761

Violation Final Penalty Total \$11,813

This violation Final Assessed Penalty (adjusted for limits) \$11,813

Economic Benefit Worksheet

Respondent Brownsville Public Utility Board

Case ID No. 48695

Reg. Ent. Reference No. RN102180205

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	\$32,363,888	6-Aug-2013	23-Apr-2014	0.71	\$76,846	\$1,536,915	\$1,613,761
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

Total cost to complete the Facility expansion project construction activities. Date required is the date the expansion project construction activities were to be completed. 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

\$32,363,888

TOTAL

\$1,613,761

Screening Date 13-May-2014

Docket No. 2014-0701-MWD-E

PCW

Respondent Brownsville Public Utility Board

Policy Revision 4 (April 2014)

Case ID No. 48695

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102180205

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010397005, Interim I and II 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 9, 2014, 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 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. E. coli and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

123 Number of violation days

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

Violation Base Penalty \$11,250

Three quarterly events are recommended for the quarters containing the months of March 2013, and October 2013 through December 2013.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$878

Violation Final Penalty Total \$14,625

This violation Final Assessed Penalty (adjusted for limits) \$14,625

Economic Benefit Worksheet

Respondent Brownsville Public Utility Board
Case ID No. 48695
Reg. Ent. Reference No. RN102180205
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
<small>No commas or \$</small>							

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)	\$10,000	31-Mar-2013	1-Jan-2015	1.76	\$878	n/a	\$878

Notes for DELAYED costs
 Estimated cost to determine the cause of noncompliance and to make any necessary adjustments/repairs to the Facility to return to compliance with permitted effluent limitations. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$10,000	TOTAL	\$878
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Screening Date 13-May-2014

Docket No. 2014-0701-MWD-E

PCW

Respondent Brownsville Public Utility Board

Policy Revision 4 (April 2014)

Case ID No. 48695

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102180205

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010397005, Interim I 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 9, 2014, 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 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels protective of human health or the environment as a result of this violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3

92 Number of violation days

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

Violation Base Penalty \$22,500

Three monthly events are recommended for the months of April 2013, May 2013, and August 2013.

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 \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$29,250

This violation Final Assessed Penalty (adjusted for limits) \$29,250

Economic Benefit Worksheet

Respondent Brownsville Public Utility Board
Case ID No. 48695
Reg. Ent. Reference No. RN102180205
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description 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. 2.

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

**Brownsville Public Utilities Board
Docket No. 2014-0701-MWD-E
TPDES Permit No. WQ0010397005**

Effluent Parameter Violation Table

	BOD5	<i>E. coli</i>	TSS	NH3-N	NH3-N	NH3-N
	Daily Maximum Conc.	Daily Maximum Conc.	Daily Maximum Conc.	Daily Average Conc.	Daily Maximum Conc.	Daily Average Loading
Month/Year	Limit = 45 mg/L	Limit = 394 CFU/100 ml	Limit = 45 mg/L	Limit = 4 mg/L	Limit = 10 mg/L	Limit = 334 lbs/day
March 2013	48.2	c	54	c	c	c
April 2013	c	1,986.3	c	c	c	c
May 2013	c	2,420	c	c	c	c
August 2013	c	1,553	c	c	c	c
October 2013	c	920.8	c	c	c	c
November 2013	c	c	c	10.79	21.4	514
December 2013	c	c	c	c	17.3	c

BOD5 = biochemical oxygen demand (5-day)

CFU = colony forming units per 100 milliliters

mg/L = milligrams per liter
TSS = total suspended solids
lbs/day = pounds per day
c = compliant

Conc. = concentration
E. coli = *Escherichia coli*
NH3-N = ammonia nitrogen

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603752932, RN102180205, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN603752932, Brownsville Public Utilities Board
Classification: SATISFACTORY
Rating: 1.52

Regulated Entity: RN102180205, BROWNSVILLE PUB ROBINDALE WWTP
Classification: SATISFACTORY
Rating: 1.00

Complexity Points: 10
Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: Located at 3208 Robindale Road, adjacent to and east of Robindale Road, approximately half mile north of the intersection of Robindale Road and Farm-to-Market Road 802 in Cameron County, Texas.

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

WASTEWATER PERMIT WQ0010397005
WASTEWATER EPA ID TX0071340
PRETREATMENT EPA ID TX0071340000
STORMWATER PERMIT TXR05AL36

WASTEWATER EPA ID TX0071340
WASTEWATER AUTHORIZATION R10397005
PRETREATMENT PERMIT WQ0010397005
AIR NEW SOURCE PERMITS REGISTRATION 94529

Compliance History Period: September 01, 2008 to August 31, 2013
Rating Year: 2013
Rating Date: 09/01/2013

Date Compliance History Report Prepared: May 13, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 13, 2009 to May 13, 2014

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

Name: Remington Burklund

Phone: (512) 239-2611

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 26, 2009	(812081)
Item 2	September 04, 2009	(812087)
Item 3	September 22, 2009	(812090)

Item 4	October 21, 2009	(812093)
Item 5	November 23, 2009	(812096)
Item 6	December 28, 2009	(812100)
Item 7	March 19, 2010	(833415)
Item 8	April 22, 2010	(833416)
Item 9	May 21, 2010	(833417)
Item 10	June 21, 2010	(847064)
Item 11	August 23, 2010	(867848)
Item 12	October 19, 2010	(874798)
Item 13	November 16, 2010	(927689)
Item 14	December 22, 2010	(927690)
Item 15	January 06, 2011	(927691)
Item 16	January 24, 2011	(903104)
Item 17	February 22, 2011	(910027)
Item 18	March 21, 2011	(917221)
Item 19	April 21, 2011	(927688)
Item 20	June 13, 2011	(946293)
Item 21	July 21, 2011	(953562)
Item 22	August 23, 2011	(960188)
Item 23	September 22, 2011	(966242)
Item 24	October 21, 2011	(972261)
Item 25	November 21, 2011	(978417)
Item 26	February 22, 2012	(998855)
Item 27	March 21, 2012	(1004385)
Item 28	April 23, 2012	(1010947)
Item 29	May 21, 2012	(1017317)
Item 30	June 14, 2012	(1025115)
Item 31	July 30, 2012	(1016134)
Item 32	August 16, 2012	(1038881)
Item 33	September 24, 2012	(1047784)
Item 34	October 22, 2012	(1065624)
Item 35	November 20, 2012	(1065625)
Item 36	January 22, 2013	(1080949)
Item 37	February 22, 2013	(1080948)
Item 38	March 11, 2013	(1051816)
Item 39	March 25, 2013	(1090242)
Item 40	May 31, 2013	(1093790)
Item 41	July 23, 2013	(1118119)
Item 42	August 23, 2013	(1125912)
Item 43	August 27, 2013	(1099774)
Item 44	October 22, 2013	(1136232)
Item 45	February 19, 2014	(1161461)

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: 05/31/2013 (1111221)	CN603752932	
	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: 08/31/2013 (1130459)	CN603752932	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 10/31/2013 (1141612)	CN603752932	
	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: 11/30/2013 (1154140)	CN603752932	
	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		
5	Date: 12/31/2013 (1154141)	CN603752932	
	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		
6	Date: 03/28/2014 (1145477)	CN603752932	
	Self Report? NO	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 319, SubChapter C 319.302 30 TAC Chapter 319, SubChapter C 319.303		
	Description: Failure to prevent the unauthorized discharge of waste into or adjacent to waters of the state.		

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
BROWNSVILLE PUBLIC UTILITY
BOARD
RN102180205**

§
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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0701-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 Brownsville Public Utility Board ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 3208 Robindale Road, adjacent to and east of Robindale Road, approximately half mile north of the intersection of Robindale Road and Farm-to-Market Road 802 in Cameron County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 29, 2014.
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 Fifty-Five Thousand Six Hundred Eighty-Eighty Dollars (\$55,688) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Forty-Four Thousand Five Hundred Fifty-One Dollars (\$44,551) of the administrative penalty and Eleven Thousand One Hundred Thirty-Seven Dollars (\$11,137) 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 by April 23, 2014, the Respondent completed the interim phase expansion project construction activities at the Facility.
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 achieve compliance with the interim phase construction schedule, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (18), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010397005, Other Requirements No. 3, as documented during a record review conducted on April 9, 2014. Specifically, the Respondent did not complete construction by August 6, 2013.
2. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0010397005, Interim I and II Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on April 9, 2014 and shown in the violation table below:

Effluent Parameter Violation Table						
	BOD₅	<i>E. coli</i>	TSS	NH₃-N	NH₃-N	NH₃-N
	Daily Maximum Conc.	Daily Maximum Conc.	Daily Maximum Conc.	Daily Average Conc.	Daily Maximum Conc.	Daily Average Loading
Month/Year	Limit = 45 mg/L	Limit = 394 CFU/100 ml	Limit = 45 mg/L	Limit = 4 mg/L	Limit = 10 mg/L	Limit = 334 lbs/day
March 2013	48.2	c	54	c	c	c
April 2013	c	1,986.3	c	c	c	c
May 2013	c	2,420	c	c	c	c
August 2013	c	1,553	c	c	c	c
October 2013	c	920.8	c	c	c	c
November 2013	c	c	c	10.79	21.4	514
December 2013	c	c	c	c	17.3	c

BOD = biochemical oxygen demand (5-day)
 CFU = colony forming units per 100 milliliters

mg/L = milligrams per liter
 TSS = total suspended solids
 lbs/day = pounds per day
 c = compliant

Conc. = concentration
E. coli = *Escherichia coli*
 NH₃-N = ammonia nitrogen

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: Brownsville Public Utility Board, Docket No. 2014-0701-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, 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. WQ0010397005, 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. 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
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

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


For the Executive Director

11/25/14
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.


Signature

9/11/2014
Date

Albert Gomez Jr., P.E.
Name (Printed or typed)
Authorized Representative of
Brownsville Public Utility Board

Director of Environmental
Title Services

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.