

**Executive Summary – Enforcement Matter – Case No. 48769**  
**City of Center**  
**RN101614014**  
**Docket No. 2014-0774-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

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

East Bank Plant, located approximately 3,000 feet southwest of the intersection of Ice Plant Road and State Highway 7, Center, Shelby 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: None

**Texas Register Publication Date:** November 14, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$31,500

**Amount Deferred for Expedited Settlement:** \$6,300

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

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$25,200

Name of SEP: Texas Association of Resource Conservation & Development Areas, Inc. (Third-Party Pre-Approved)

**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. 48769  
City of Center  
RN101614014  
Docket No. 2014-0774-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** May 9, 2014  
**Date(s) of NOE(s):** May 22, 2014

***Violation Information***

Failed to comply with permitted effluent limitations for zinc and mercury [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010063003, Interim Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
  - a. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010063003, 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 the permitted effluent limitations; and
  - b. Within 105 days, submit written certification to demonstrate compliance with Ordering Provision a.

***Litigation Information***

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

**Executive Summary – Enforcement Matter – Case No. 48769**  
**City of Center**  
**RN101614014**  
**Docket No. 2014-0774-MWD-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205

**Respondent:** The Honorable David Chadwick, Mayor, City of Center, P.O. Box 1744, Center, Texas 75935

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



**Attachment A**  
**Docket Number: 2014-0774-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Center
<b>Penalty Amount:</b>	Twenty-Five Thousand Two Hundred Dollars (\$25,200)
<b>SEP Offset Amount:</b>	Twenty-Five Thousand Two Hundred Dollars (\$25,200)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Administrator
<b>Third-Party Administrator:</b>	Texas Association of Resource Conservation & Development Areas, Inc.
<b>Project Name:</b>	<i>Household Hazardous Waste Collection</i>
<b>Location of SEP:</b>	Shelby County; Sabine and Neches River Basins; Carrizo-Wilcox Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset of the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation & Development Areas (“RC&D”)** for the *Household Hazardous Waste Collection* project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities (collectively known as “Partner Entities”) to conduct events for residents to bring in Household Hazardous Waste (“HHW”) such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers for proper disposal (the “Project”). Where possible, the Project may also offer electronics collection, disposal, and recycling. The Third-Party Administrator shall work with Partner Entities to determine exactly which materials will be accepted and how they will be disposed of or recycled.

The Third-Party Administrator shall ensure that individuals qualified to make determinations regarding receiving, handling, and temporarily storing HHW are present at each event. Third-Party Administrator shall use only licensed haulers and authorized disposal sites.

The Third-Party administrator shall ensure that, at least 45 days before each Collection Event, Form TCEQ-20459 Notification for a Household Hazardous Waste Collection Event, as may be amended, is submitted to TCEQ in accordance with Chapter 335, 30 Texas Administrative Code. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

**B. Environmental Benefit**

This SEP will provide a means of properly disposing of HHW which might otherwise be disposed of in regular landfills, storm drains, sewer systems, or other means detrimental to the environment. This SEP will provide assistance to help rid communities of the dangers and health threats associated with HHW, and will provide for proper and protective disposal or recycling of collected materials

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Jerry Pearce  
P.O. Box 2533  
Victoria, Texas 77902

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Litigation SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed

City of Center  
Docket No. 2014-0774-MWD-E  
Attachment A

Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	27-May-2014	Screening	3-Jun-2014	EPA Due	5-Sep-2014
	PCW	10-Jul-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Center
Reg. Ent. Ref. No.	RN101614014
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	48769	No. of Violations	2
Docket No.	2014-0774-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jill Russell
		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**

### 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 due to four months of self-reported effluent violations and one agreed final enforcement order containing a denial of liability.

**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   
 Approx. Cost of Compliance  \*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

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

**Screening Date** 3-Jun-2014  
**Respondent** City of Center  
**Case ID No.** 48769  
**Reg. Ent. Reference No.** RN101614014  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jill Russell

**Docket No.** 2014-0774-MWD-E

**PCW**

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

### 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> )	1	20%
	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)** 40%

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement due to four months of self-reported effluent violations and one agreed final enforcement order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 40%

**Screening Date** 3-Jun-2014  
**Respondent** City of Center  
**Case ID No.** 48769  
**Reg. Ent. Reference No.** RN101614014  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jill Russell

**Docket No.** 2014-0774-MWD-E

**PCW**

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

**Violation Number**   
**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. WQ0010063003, Interim Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 1  
**Violation Description** Failed to comply with permitted effluent limitations, as documented during the May 9, 2014 record review, and shown in the attached table.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text" value="30.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

**Matrix Notes**  
 A simplified model was used to evaluate mercury to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

**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 checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two monthly events are recommended for the months of February and March 2014.

**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 checked="" type="checkbox"/>	(mark with x)

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

**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** City of Center  
**Case ID No.** 48769  
**Reg. Ent. Reference No.** RN101614014  
**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
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)	\$10,000	30-Sep-2013	8-Mar-2015	1.44	\$718	n/a	\$718

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility. 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**

\$718

**Screening Date** 3-Jun-2014  
**Respondent** City of Center  
**Case ID No.** 48769  
**Reg. Ent. Reference No.** RN101614014  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jill Russell

**Docket No.** 2014-0774-MWD-E

**PCW**

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

**Violation Number**

**Rule Cite(s)**

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and TPDES  
 Permit No. WQ0010063003, Interim Effluent Limitations and Monitoring  
 Requirements No. 1, Outfall No. 1

**Violation Description**

Failed to comply with permitted effluent limitations, as documented during the May 9, 2014 record review, and shown in the attached table.

**Base Penalty**

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

OR

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

Simplified models were used to evaluate mercury and zinc to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

**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 checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two quarterly events are recommended for the quarters containing the months of September 2013 and January 2014.

**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 checked="" type="checkbox"/>	(mark with x)

Notes

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

**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** City of Center  
**Case ID No.** 48769  
**Reg. Ent. Reference No.** RN101614014  
**Media** Water Quality  
**Violation No.** 2

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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 associated with Violation No. 1.

### 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

<b>Effluent Violations Table</b>					
City of Center					
RN101614014; Docket 2014-0774-MWD-E					
TPDES Permit No. WQ0010063003					
Outfall No. 001					
	Zinc DAV Conc	Zinc DMAX Conc	Mercury DAV Conc	Mercury DMAX Conc	Mercury DAV Loading
<b>Month/ Year</b>	<b>Limit = 0.0878 mg/L</b>	<b>Limit = 0.186 mg/L</b>	<b>Limit = 0.0000279 mg/L</b>	<b>Limit = 0.000056 mg/L</b>	<b>Limit = 0.0004 lb/d</b>
September 2013	0.089	0.232	c	c	c
January 2014	c	c	0.000034	c	c
February 2014	c	c	0.000125	0.000125	0.001177
March 2014	c	c	0.000044	c	c

DAV = Daily Average, DMAX = Daily Maximum  
 Conc = Concentration  
 mg/L = milligrams per liter  
 lb/d = pounds per day  
 c = compliant



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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 CN600254270, RN101614014, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600254270, City of Center      **Classification:** SATISFACTORY      **Rating:** 3.86  
**Regulated Entity:** RN101614014, EAST BANK PLANT      **Classification:** SATISFACTORY      **Rating:** 7.58  
**Complexity Points:** 10      **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** Approximately 3,000 feet southwest of the intersection of Ice Plant Road and State Highway 7 in the City of Center, Shelby County, Texas  
**TCEQ Region:** REGION 10 - BEAUMONT

### ID Number(s):

**WASTEWATER PERMIT** WQ0010063003      **WASTEWATER EPA ID** TX0076953  
**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** SI0050M      **WASTEWATER LICENSING LICENSE** WQ0010063003

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

**Date Compliance History Report Prepared:** June 26, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 26, 2009 to June 26, 2014

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

**Name:** Jill Russell

**Phone:** (512) 239-4564

### 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: 03/07/2011      ADMINORDER 2010-1594-MWD-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov:Effluent Limits PERMIT  
Description: Failed to comply with permit effluent limits for mercury and zinc.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
30 TAC Chapter 319, SubChapter A 319.1  
Rqmt Prov:Biomonitoring Requirements PERMIT  
Description: Failed to timely submit the quarterly biomonitoring reports for toxicity for the monitoring periods ending June 30, 2009 and September 30, 2009.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	August 24, 2009	(813152)	Item 23	January 17, 2012	(991643)
Item 2	December 23, 2009	(813156)	Item 24	February 20, 2012	(998987)
Item 3	January 19, 2010	(813154)	Item 25	March 20, 2012	(1004509)
Item 4	January 22, 2010	(813157)	Item 26	April 04, 2012	(1011093)
Item 5	February 25, 2010	(813151)	Item 27	May 18, 2012	(1017449)
Item 6	March 02, 2010	(833841)	Item 28	June 14, 2012	(1025245)
Item 7	March 19, 2010	(833840)	Item 29	July 20, 2012	(1032588)
Item 8	May 25, 2010	(833842)	Item 30	August 20, 2012	(1039013)
Item 9	June 23, 2010	(847181)	Item 31	September 18, 2012	(1047938)
Item 10	September 20, 2010	(874938)	Item 32	November 15, 2012	(1066282)
Item 11	October 20, 2010	(882545)	Item 33	December 20, 2012	(1066283)
Item 12	November 19, 2010	(888975)	Item 34	January 18, 2013	(1081222)
Item 13	December 24, 2010	(903228)	Item 35	March 19, 2013	(1090397)
Item 14	February 20, 2011	(910146)	Item 36	April 19, 2013	(1096754)
Item 15	April 19, 2011	(928073)	Item 37	May 16, 2013	(1107717)
Item 16	June 20, 2011	(946432)	Item 38	June 19, 2013	(1111352)
Item 17	July 19, 2011	(953711)	Item 39	September 10, 2013	(1126042)
Item 18	August 19, 2011	(960323)	Item 40	September 20, 2013	(1130598)
Item 19	September 20, 2011	(966379)	Item 41	November 19, 2013	(1141745)
Item 20	October 24, 2011	(972390)	Item 42	December 18, 2013	(1148209)
Item 21	November 20, 2011	(978542)	Item 43	January 20, 2014	(1154282)
Item 22	December 20, 2011	(985362)			

**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: 09/30/2013 (1136363)	CN600254270	
	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: 01/31/2014 (1161599)	CN600254270	
	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: 02/28/2014 (1168233)	CN600254270	
	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: 03/31/2014 (1175396)	CN600254270	
	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  
CITY OF CENTER  
RN101614014**

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

**AGREED ORDER  
DOCKET NO. 2014-0774-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Center ("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 plant located approximately 3,000 feet southwest of the intersection of Ice Plant Road and State Highway 7 in Center, Shelby 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 May 27, 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 Thirty-One Thousand Five Hundred Dollars (\$31,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six Thousand Three Hundred Dollars (\$6,300) 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. Twenty-Five Thousand Two Hundred Dollars (\$25,200) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 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.
10. 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.
11. 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 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. WQ0010063003, Interim Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 1, as documented during the May 9, 2014 record review, and shown in the table below:

<b>Effluent Violations Table</b>					
	Zinc DAV Conc	Zinc DMAX Conc	Mercury DAV Conc	Mercury DMAX Conc	Mercury DAV Loading
<b>Month/ Year</b>	<b>Limit = 0.0878 mg/L</b>	<b>Limit = 0.186 mg/L</b>	<b>Limit = 0.0000279 mg/L</b>	<b>Limit = 0.000056 mg/L</b>	<b>Limit = 0.0004 lb/d</b>
September 2013	0.089	0.232	c	c	c
January 2014	c	c	0.000034	c	c
February 2014	c	c	0.000125	0.000125	0.001177
March 2014	c	c	0.000044	c	c

DAV = Daily Average, DMAX = Daily Maximum  
Conc = concentration  
mg/L = milligrams per liter  
lb/d = pounds per day  
c = compliant

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Center, Docket No. 2014-0774-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 implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twenty-Five Thousand Two Hundred Dollars (\$25,200) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. 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. WQ0010063003, 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 the permitted effluent limitations, as described in Ordering Provision No. 3.b below.
  - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Pam Marquez*  
For the Executive Director

2/2/15  
Date

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

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

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

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

*David Chadwick*  
Signature

October 14, 2014  
Date

David Chadwick  
Name (Printed or typed)  
Authorized Representative of  
The City of Center

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 IV, Paragraph 1 of this Agreed Order.

**Attachment A**  
**Docket Number: 2014-0774-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Center
<b>Penalty Amount:</b>	Twenty-Five Thousand Two Hundred Dollars (\$25,200)
<b>SEP Offset Amount:</b>	Twenty-Five Thousand Two Hundred Dollars (\$25,200)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Administrator
<b>Third-Party Administrator:</b>	Texas Association of Resource Conservation & Development Areas, Inc.
<b>Project Name:</b>	<i>Household Hazardous Waste Collection</i>
<b>Location of SEP:</b>	Shelby County; Sabine and Neches River Basins; Carrizo-Wilcox Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset of the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation & Development Areas (“RC&D”)** for the *Household Hazardous Waste Collection* project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities (collectively known as “Partner Entities”) to conduct events for residents to bring in Household Hazardous Waste (“HHW”) such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers for proper disposal (the “Project”). Where possible, the Project may also offer electronics collection, disposal, and recycling. The Third-Party Administrator shall work with Partner Entities to determine exactly which materials will be accepted and how they will be disposed of or recycled.

The Third-Party Administrator shall ensure that individuals qualified to make determinations regarding receiving, handling, and temporarily storing HHW are present at each event. Third-Party Administrator shall use only licensed haulers and authorized disposal sites.

The Third-Party administrator shall ensure that, at least 45 days before each Collection Event, Form TCEQ-20459 Notification for a Household Hazardous Waste Collection Event, as may be amended, is submitted to TCEQ in accordance with Chapter 335, 30 Texas Administrative Code. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

**B. Environmental Benefit**

This SEP will provide a means of properly disposing of HHW which might otherwise be disposed of in regular landfills, storm drains, sewer systems, or other means detrimental to the environment. This SEP will provide assistance to help rid communities of the dangers and health threats associated with HHW, and will provide for proper and protective disposal or recycling of collected materials

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Jerry Pearce  
P.O. Box 2533  
Victoria, Texas 77902

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Litigation SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed

City of Center  
Docket No. 2014-0774-MWD-E  
Attachment A

Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.