

**Executive Summary – Enforcement Matter – Case No. 48351**

**City of Moody**

**RN102077278**

**Docket No. 2014-0325-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

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

City of Moody WWTP, located at 501 5th Street, approximately 1,500 feet northwest of the intersection of State Highway 317 and Farm-to-Market Road 107, Moody, McLennan 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:** June 27, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,500

**Amount Deferred for Expedited Settlement:** \$3,100

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

**Total Paid to General Revenue:** \$12,400

**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:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 48351**  
**City of Moody**  
**RN102077278**  
**Docket No. 2014-0325-MWD-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** January 10, 2014

**Date(s) of NOE(s):** January 31, 2014

***Violation Information***

1. Failed to comply with permitted effluent limits for total suspended solids, *E. coli*, dissolved oxygen, and 5-day biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

2. Failed to collect and analyze effluent samples at the required frequency. Specifically, the Respondent did not collect samples for ammonia nitrogen and *E. coli* for the monitoring period ending May 31, 2013. The Respondent reported on the Discharge Monitoring Report (“DMR”) that samples were not collected [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b), and TPDES Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

i. Update the Facility’s operational guidance and conduct employee training to ensure that all effluent samples are collected and analyzed at the minimum required frequencies; and

ii. Begin collecting and analyzing effluent samples at the required frequency.

b. Within 45 days, submit written certification of compliance with Order Provision a.

c. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010225001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most

**Executive Summary – Enforcement Matter – Case No. 48351  
City of Moody  
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current self-reported DMRs, 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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** The Honorable Tom Melton, Mayor, City of Moody, P.O. Box 68, Moody, Texas 76557  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	4-Feb-2014	<b>Screening</b>	14-Feb-2014	<b>EPA Due</b>	
	<b>PCW</b>	4-Mar-2014				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Moody
<b>Reg. Ent. Ref. No.</b>	RN102077278
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	48351	<b>No. of Violations</b>	3
<b>Docket No.</b>	2014-0325-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$10,000**

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

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

**Compliance History** **55.0%** Enhancement **Subtotals 2, 3, & 7** **\$5,500**

Notes: Enhancement for six months of self-reported effluent violations, one NOV for same/similar violations, and one order with denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$1,021  
Approx. Cost of Compliance \$10,550  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$15,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$15,500**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$15,500**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$3,100**

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** **\$12,400**

**Screening Date** 14-Feb-2014

**Docket No.** 2014-0325-MWD-E

**PCW**

**Respondent** City of Moody

Policy Revision 3 (September 2011)

**Case ID No.** 48351

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN102077278

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	7	35%
	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 judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 55%

>> **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 six months of self-reported effluent violations, one NOV for same/similar violations, and one order with denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 55%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 55%

Screening Date 14-Feb-2014

Docket No. 2014-0325-MWD-E

PCW

Respondent City of Moody

Policy Revision 3 (September 2011)

Case ID No. 48351

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102077278

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on January 10, 2014. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	5.0%
Potential				

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Total suspended solids and dissolved oxygen 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 that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4 181 Number of violation days

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

Violation Base Penalty \$5,000

Four quarterly events are recommended.

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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$836

Violation Final Penalty Total \$7,750

This violation Final Assessed Penalty (adjusted for limits) \$7,750

# Economic Benefit Worksheet

**Respondent** City of Moody  
**Case ID No.** 48351  
**Reg. Ent. Reference No.** RN102077278  
**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
<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	28-Feb-2013	31-Oct-2014	1.67	\$836	n/a	\$836

#### Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with permitted effluent limits. Date required is the first month 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**

\$836

Screening Date 14-Feb-2014

Docket No. 2014-0325-MWD-E

PCW

Respondent City of Moody

Policy Revision 3 (September 2011)

Case ID No. 48351

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102077278

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on January 10, 2014. See attached 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

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of October 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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,813

This violation Final Assessed Penalty (adjusted for limits) \$5,813

# Economic Benefit Worksheet

**Respondent** City of Moody  
**Case ID No.** 48351  
**Reg. Ent. Reference No.** RN102077278  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

See economic benefit for Violation No. 1.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

Screening Date 14-Feb-2014

Docket No. 2014-0325-MWD-E

PCW

Respondent City of Moody

Policy Revision 3 (September 2011)

Case ID No. 48351

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102077278

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s)

30. Tex. Admin. Code §§ 305.125(1) and 319.5(b), and TPDES Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to collect and analyze effluent samples at the required frequency. Specifically, the Respondent did not collect samples for ammonia nitrogen and Escherichia coli ("E. coli") for the monitoring period ending May 31, 2013. The Respondent reported on the Discharge Monitoring Report that samples were not collected.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> 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 the environment as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,250

One single event is recommended for the month of May 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$185

Violation Final Penalty Total \$1,938

This violation Final Assessed Penalty (adjusted for limits) \$1,938

# Economic Benefit Worksheet

**Respondent** City of Moody  
**Case ID No.** 48351  
**Reg. Ent. Reference No.** RN102077278  
**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**  
**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	\$250	10-Jan-2014	31-Oct-2014	0.81	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all effluent samples are collected and analyzed at the minimum required frequencies. Date required is the date of the record review. The 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]	\$150	1-May-2013	31-May-2014	2.00	\$15	\$150	\$165
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Estimated avoided cost to collect and analyze effluent samples at the required frequency. Date required is the month during which the sample should have been collected.

**Approx. Cost of Compliance**

\$400

**TOTAL**

\$175

CITY OF MOODY  
 TPDES PERMIT NO. WQ0010225001; RN102077278  
 DOCKET NO. 2014-0325-MWD-E; CASE NO. 48351

	TSS Daily Average Conc.	TSS Daily Average Single Grab	<i>E. coli</i> Daily Average	<i>E. coli</i> Single Grab	DO Monthly Minimum	BOD <sub>5</sub> Daily Average Conc.
<i>Month/Year</i>	20 mg/L	65 mg/L	126 CFU/100 ml	399 CFU/100 ml	4 mg/L	20 mg/L
February 2013	23.75	c	c	c	c	c
March 2013	28.75	c	c	c	c	c
June 2013	23.5	c	c	c	c	c
August 2013	26.6	c	c	c	c	c
September 2013	31.25	c	c	c	c	c
October 2013	43.4	67	1733	1733	2.8	21.8
November 2013	38.5	c	c	c	3.8	27.75

mg/L = milligrams per liter  
 DO = dissolved oxygen  
*E. coli* = *Escherichia coli*  
 c = compliant

TSS = total suspended solids  
 CFU = colony forming units per 100 milliliters  
 BOD<sub>5</sub> = biochemical oxygen demand, 5-day  
 Conc. = concentration



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# Compliance History Report

**PUBLISHED** Compliance History Report for CN600754592, RN102077278, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600754592, City of Moody	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	2.46
<b>Regulated Entity:</b>	RN102077278, CITY OF MOODY	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	3.52
<b>Complexity Points:</b>	7	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	08 - Sewage Treatment Facilities				
<b>Location:</b>	LOCATED AT 501 5TH STREET, APPROXIMATELY 1,500 FEET NORTHWEST OF THE INTERSECTION OF STATE HIGHWAY 317 AND FARM-TO MARKET ROAD 107 IN MOODY, MCLENNAN COUNTY				
<b>TCEQ Region:</b>	REGION 09 - WACO				
<b>ID Number(s):</b>					
<b>WASTEWATER PERMIT</b>	WQ0010225001	<b>WASTEWATER EPA ID</b>	TX0024066		
<b>WASTEWATER LICENSING LICENSE</b>	WQ0010225001				
<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b>	2013	<b>Rating Date:</b>	09/01/2013
<b>Date Compliance History Report Prepared:</b>	March 05, 2014				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	March 05, 2009 to March 05, 2014				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Cheryl Thompson			<b>Phone</b>	(817) 588-5886

## 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: 12/25/2010 ADMINORDER 2010-0999-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: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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

N/A

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

N/A

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

- |        |                |          |
|--------|----------------|----------|
| Item 1 | March 26, 2009 | (751078) |
| Item 2 | June 13, 2009  | (768963) |

Item 3	July 29, 2009	(806700)
Item 4	August 19, 2009	(806701)
Item 5	September 18, 2009	(806702)
Item 6	October 19, 2009	(806703)
Item 7	November 21, 2009	(806704)
Item 8	June 01, 2010	(831599)
Item 9	June 14, 2010	(846492)
Item 10	July 21, 2010	(861055)
Item 11	September 01, 2010	(867098)
Item 12	September 19, 2010	(874153)
Item 13	October 20, 2010	(881756)
Item 14	November 20, 2010	(888252)
Item 15	December 20, 2010	(896516)
Item 16	January 20, 2011	(902540)
Item 17	February 17, 2011	(909324)
Item 18	March 22, 2011	(916584)
Item 19	April 21, 2011	(925535)
Item 20	May 19, 2011	(938278)
Item 21	June 20, 2011	(945649)
Item 22	July 20, 2011	(952889)
Item 23	August 31, 2011	(959553)
Item 24	October 10, 2011	(965591)
Item 25	October 20, 2011	(971628)
Item 26	November 21, 2011	(977798)
Item 27	December 23, 2011	(984561)
Item 28	January 22, 2012	(990852)
Item 29	February 20, 2012	(998223)
Item 30	March 23, 2012	(1003741)
Item 31	May 20, 2012	(1016697)
Item 32	June 20, 2012	(1024436)
Item 33	July 21, 2012	(1031814)
Item 34	August 30, 2012	(1038184)
Item 35	September 21, 2012	(1046939)
Item 36	October 22, 2012	(1061905)
Item 37	November 21, 2012	(1061906)
Item 38	December 22, 2012	(1061907)
Item 39	January 21, 2013	(1079496)
Item 40	February 21, 2013	(1079495)
Item 41	May 21, 2013	(1106889)
Item 42	June 21, 2013	(1110546)
Item 43	August 22, 2013	(1125204)

**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:	03/31/2013 (1095951)	CN600754592	
	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:	06/30/2013 (1117435)	CN600754592	
	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:	08/31/2013 (1129790)	CN600754592	
	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

**Published Compliance History Report for CN600754592, RN102077278, Rating Year 2013 which includes Compliance History (CH) components from March 05, 2009, through March 05, 2014.**

Page 2

4	Date: 09/30/2013 (1135534)	CN600754592	
	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: 10/31/2013 (1140923)	CN600754592	
	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: 11/15/2013 (1116611)	CN600754592	
	Self Report? NO	Classification: Minor	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) PERMIT CONDITIONS PERMIT		
	Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.		
7	Date: 11/30/2013 (1147393)	CN600754592	
	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 MOODY  
RN102077278**

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

**AGREED ORDER  
DOCKET NO. 2014-0325-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 Moody ("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 at 501 5th Street, approximately 1,500 feet northwest of the intersection of State Highway 317 and Farm-to-Market Road 107 in Moody, McLennan County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 February 3, 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 Fifteen Thousand Five Hundred Dollars (\$15,500) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). The Respondent has paid Twelve Thousand Four Hundred Dollars (\$12,400) of the administrative penalty and Three Thousand One Hundred Dollars (\$3,100) 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 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:

1. Failed to comply with permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on January 10, 2014, and as shown in the table below:

	TSS Daily Average Conc.	TSS Daily Average Single Grab	<i>E. coli</i> Daily Average	<i>E. coli</i> Single Grab	DO Monthly Minimum	BOD5 Daily Average Conc.
<i>Month/Year</i>	20 mg/L	65 mg/L	126 CFU/100 ml	399 CFU/100 ml	4 mg/L	20 mg/L
February 2013	23.75	c	c	c	c	c
March 2013	28.75	c	c	c	c	c
June 2013	23.5	c	c	c	c	c
August 2013	26.6	c	c	c	c	c
September 2013	31.25	c	c	c	c	c
October 2013	43.4	67	1733	1733	2.8	21.8
November 2013	38.5	c	c	c	3.8	27.75

mg/L = milligrams per liter  
DO = dissolved oxygen  
*E. coli* = *Escherichia coli*  
c = compliant

TSS = total suspended solids  
CFU = colony forming units per 100 milliliters  
BOD5 = biochemical oxygen demand, 5-day  
Conc. = concentration

- Failed to collect and analyze effluent samples at the required frequency, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b), and TPDES Permit No. WQ0010225001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on January 10, 2014. Specifically, the Respondent did not collect samples for ammonia nitrogen and *E. coli* for the monitoring period ending May 31, 2013. The Respondent reported on the Discharge Monitoring Report ("DMR") that samples were not collected.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

- 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 Moody, Docket No. 2014-0325-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
  - i. Update the Facility's operational guidance and conduct employee training to ensure that all effluent samples are collected and analyzed at the minimum required frequencies, in accordance with TPDES Permit No. WQ0010225001; and
  - ii. Begin collecting and analyzing effluent samples at the required frequency, in accordance with 30 TEX. ADMIN. CODE § 319.5.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Order Provisions Nos. 2.a.i. and 2.a.ii., as described below in Ordering Provision No. 2.d.
- c. 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. WQ0010225001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.
- d. The certifications required by Ordering Provisions Nos. 2.b. and 2.c. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the 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  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

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

*Pamela J. J.*  
For the Executive Director

3/9/15  
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.

*Thomas Melton*

Signature

3 Sept 2014  
Date

THOMAS MELTON, Mayor

Name (Printed or typed)  
Authorized Representative of  
City of Moody

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.