

Executive Summary – Enforcement Matter – Case No. 49074

New Braunfels Utilities

RN101700946

Docket No. 2014-1097-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Gruene Road Plant, located approximately 700 feet southwest of the crossing of Gruene Loop Road over the Guadalupe River, Comal 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: January 23, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,500

Amount Deferred for Expedited Settlement: \$2,100

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$8,400

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: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 17, 2014

Date(s) of NOE(s): July 23, 2014

**Executive Summary – Enforcement Matter – Case No. 49074
New Braunfels Utilities
RN101700946
Docket No. 2014-1097-MWD-E**

Violation Information

Failed to comply with permitted effluent limits. Specifically, the Respondent exceeded the permitted daily average limit for carbonaceous biochemical oxygen demand (5-day) of 5 milligrams per liter ("mg/L") during the months of December 2013, January 2014, March 2014, and April 2014, with reported values of 5.16 mg/L, 5.17 mg/L, 6.11 mg/L, and 5.48 mg/L, respectively [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010232002, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By August 11, 2014, the Respondent purchased and installed new timers for the plant aeration basins, sensors to monitor mixed-liquor suspended solids and dissolved oxygen in the aeration basins, and a chemical feed pump with associated equipment.

Technical Requirements:

The Order will require the Respondent to, within 730 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010232002, 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, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

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: Gregory Zychowski, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-3158; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Paula J. DiFonzo, Chief Executive Officer, New Braunfels Utilities, P.O. Box 310289, New Braunfels, Texas 78131

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	28-Jul-2014	Screening	31-Jul-2014	EPA Due	5-Dec-2014
	PCW	17-Nov-2014				

RESPONDENT/FACILITY INFORMATION			
Respondent	New Braunfels Utilities		
Reg. Ent. Ref. No.	RN101700946		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	49074	No. of Violations	1
Docket No.	2014-1097-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Gregory Zychowski
		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	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	40.0% Enhancement	Subtotals 2, 3, & 7	\$3,000

Notes: Enhancement for one agreed order with a denial of liability, and four months of self-reported effluent violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$8,305,472
 Estimated Cost of Compliance \$37,817,780
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$10,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,500
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,100
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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	\$8,400
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Screening Date 31-Jul-2014

Docket No. 2014-1097-MWD-E

PCW

Respondent New Braunfels Utilities

Policy Revision 4 (April 2014)

Case ID No. 49074

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101700946

Media [Statute] Water Quality

Enf. Coordinator Gregory Zychowski

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%

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) 40%

>> 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 one agreed order with a denial of liability, and four months of self-reported effluent violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 40%

Screening Date 31-Jul-2014

Docket No. 2014-1097-MWD-E

PCW

Respondent New Braunfels Utilities

Policy Revision 4 (April 2014)

Case ID No. 49074

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101700946

Media [Statute] Water Quality

Enf. Coordinator Gregory Zychowski

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010232002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on July 17, 2014. Specifically, the Respondent exceeded the permitted daily average limit for carbonaceous biochemical oxygen demand (5-day) of 5 milligrams per liter ("mg/L") during the months of December 2013, January 2014, March 2014, and April 2014, with reported values of 5.16 mg/L, 5.17 mg/L, 6.11 mg/L, and 5.48 mg/L, respectively.

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 carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violations.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

123 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Two quarterly events are recommended for the quarters containing the months of December 2013, January 2014, March 2014, and April 2014.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8,305,472

Violation Final Penalty Total \$10,500

This violation Final Assessed Penalty (adjusted for limits) \$10,500

Economic Benefit Worksheet

Respondent New Braunfels Utilities
Case ID No. 49074
Reg. Ent. Reference No. RN101700946
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	\$17,780	31-Dec-2013	24-Mar-2017	3.23	\$191	\$3,829	\$4,020
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$34,000,000	31-Dec-2013	24-Mar-2017	3.23	\$366,082	\$7,321,644	\$7,687,726
Land	\$3,800,000	31-Dec-2013	24-Mar-2017	3.23	\$613,726	n/a	\$613,726
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

Equipment cost is the estimated cost to purchase and install new timers for the plant aeration basins, sensors to monitor mixed-liquor suspended solids and dissolved oxygen in the aeration basins, and a chemical feed pump with associated equipment. Engineering/Construction cost is the estimated cost of designing and constructing a new, higher capacity wastewater treatment plant. Land cost is the estimated cost of a land purchase for the new wastewater treatment plant. 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

\$37,817,780

TOTAL

\$8,305,472

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 CN600522957, RN101700946, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600522957, New Braunfels Utilities **Classification:** SATISFACTORY **Rating:** 1.29

Regulated Entity: RN101700946, GRUENE ROAD PLANT **Classification:** SATISFACTORY **Rating:** 4.15

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: APPROXIMATELY 700 FEET SOUTHWEST OF THE CROSSING OF GRUENE LOOP ROAD OVER THE GUADALUPE RIVER, IN COMAL COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

WASTEWATER PERMIT WQ0010232002 **WASTEWATER EPA ID** TX0070939
WASTEWATER AUTHORIZATION R10232002

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

Date Compliance History Report Prepared: July 29, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 30, 2009 to July 29, 2014

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

Name: Greg Zychowski

Phone: (512) 239-3158

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: 10/27/2012 ADMINORDER 2012-0771-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 Limit. & Mon. Req. Nos. 1 and 2 PERMIT
Effluent Limits PERMIT
Description: Failure to comply with permitted effluent limits.

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 27, 2009	(811963)	Item 24	March 19, 2012	(1004375)
Item 2	October 19, 2009	(811965)	Item 25	April 20, 2012	(1010937)
Item 3	November 18, 2009	(811966)	Item 26	May 15, 2012	(1017308)
Item 4	November 19, 2009	(811968)	Item 27	June 18, 2012	(1025104)
Item 5	December 16, 2009	(811967)	Item 28	July 18, 2012	(1032445)
Item 6	February 15, 2010	(811962)	Item 29	August 16, 2012	(1038871)
Item 7	March 19, 2010	(833387)	Item 30	September 20, 2012	(1047772)
Item 8	June 18, 2010	(847054)	Item 31	October 17, 2012	(1065590)
Item 9	July 09, 2010	(927670)	Item 32	November 14, 2012	(1065591)
Item 10	August 18, 2010	(867834)	Item 33	December 14, 2012	(1065592)
Item 11	September 17, 2010	(874788)	Item 34	January 16, 2013	(1080929)
Item 12	October 19, 2010	(882376)	Item 35	March 15, 2013	(1090231)
Item 13	December 17, 2010	(927669)	Item 36	April 17, 2013	(1096607)
Item 14	March 15, 2011	(917210)	Item 37	May 17, 2013	(1107566)
Item 15	April 19, 2011	(927667)	Item 38	June 17, 2013	(1111211)
Item 16	May 18, 2011	(938904)	Item 39	August 20, 2013	(1125904)
Item 17	June 17, 2011	(946281)	Item 40	September 17, 2013	(1130447)
Item 18	July 20, 2011	(953551)	Item 41	October 17, 2013	(1136223)
Item 19	August 30, 2011	(942755)	Item 42	November 20, 2013	(1141596)
Item 20	September 20, 2011	(966232)	Item 43	December 18, 2013	(1148056)
Item 21	October 13, 2011	(972251)	Item 44	March 18, 2014	(1168093)
Item 22	January 19, 2012	(991496)			
Item 23	February 17, 2012	(998843)			

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	12/31/2013 (1154128)	CN600522957		
	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 (1161451)	CN600522957		
	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:	03/31/2014 (1175251)	CN600522957		
	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:	04/30/2014 (1181441)	CN600522957		
	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
NEW BRAUNFELS UTILITIES
RN101700946**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-1097-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 New Braunfels Utilities ("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 approximately 700 feet southwest of the crossing of Gruene Loop Road over the Guadalupe River, in Comal 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 July 28, 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 Ten Thousand Five Hundred Dollars (\$10,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Four Hundred Dollars (\$8,400)

of the administrative penalty and Two Thousand One Hundred Dollars (\$2,100) 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 recognizes that by August 11, 2014, the Respondent purchased and installed new timers for the plant aeration basins, sensors to monitor mixed-liquor suspended solids and dissolved oxygen in the aeration basins, and a chemical feed pump with associated equipment.
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 failed to comply with permitted effluent limits, 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. WQ0010232002, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 17, 2014. Specifically, the Respondent exceeded the permitted daily average limit for carbonaceous biochemical oxygen demand (5-day) of 5 milligrams per liter ("mg/L") during the months of December 2013, January 2014, March 2014, and April 2014, with reported values of 5.16 mg/L, 5.17 mg/L, 6.11 mg/L, and 5.48 mg/L, respectively.

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: New Braunfels Utilities, Docket No. 2014-1097-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 730 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010232002, including specific corrective actions that 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, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

3/25/15
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.


Signature

Dec. 11, 2014
Date

PAULA J. DiFONZO
Name (Printed or typed)
Authorized Representative of
New Braunfels Utilities

CEO
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.