

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48660  
Town of Mustang  
RN102807864  
Docket No. 2014-0688-MWD-E

**Order Type:**

Agreed Order

**Media:**

MWD

**Small Business:**

N/A

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

800 feet east of U.S. Interstate 45 and Farm-to-Market Road 739, Navarro County

**Type of Operation:**

wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** October 23, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$19,500

**Total Paid to General Revenue:** \$106

**Total Due to General Revenue:** \$19,394

Payment Plan: 17 payments of \$100 each followed by 18 payments of \$983 each

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

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

**Date(s) of Investigation:** April 22, 2014

**Date(s) of NOV(s):** October 31, 2013; March 12, 2014

**Date(s) of NOE(s):** April 29, 2014

**Town of Mustang**  
**RN102807864**  
**Docket No. 2014-0688-MWD-E**

**Violation Information**

1. Failed to document that samples are being analyzed within the required holding time and failed to conduct the chlorine residual analysis at the frequency specified in the permit [30 TEX. ADMIN. CODE § 319.11(b); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011516001, Monitoring and Reporting Requirements Nos. 1, 2, and 3(c)].
2. Failed to employ or contract with one or more licensed wastewater treatment facility operators who holds a Class "D" or higher wastewater license or wastewater system operation companies [30 TEX. ADMIN. CODE §§ 30.331(b) and 305.125(1); and TPDES Permit No. WQ0011516001, Other Requirements No. 1].
3. Failed to submit discharge monitoring reports ("DMRs") by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d); and TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements No. 1].
4. Failed to submit an annual sludge report [30 TEX. ADMIN. CODE § 305.125(1) and (17); and TPDES Permit No. WQ0011516001, Sludge Provisions].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:** None

**Technical Requirements:**

1. Within 30 days:
  - a. Ensure that the Facility is operated a minimum of five days per week by a licensed chief operator or operator holding a Class "D" or higher wastewater license;
  - b. Begin analyzing effluent samples at the required frequency and within the required holding time, including conducting chlorine residual analysis at the required frequency; and
  - c. Update the Facility's operational guidance and conduct employee training to ensure that effluent analysis requirements are met and self-reporting requirements are properly accomplished, including the documentation of required holding times for effluent samples and timely submittal of signed and certified monthly DMRs and annual sludge reports.
2. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** April 20, 2015  
**Date Answer Filed:** May 8, 2015  
**SOAH Referral Date:** June 18, 2015  
**Hearing Date(s):**  
 Preliminary hearing: August 6, 2015 (waived)  
 Evidentiary hearing: December 9, 2015 (scheduled)  
**Settlement Date:** September 12, 2015

**Contact Information**

**TCEQ Attorneys:** Jacquelyn Boutwell, Litigation Division, (512) 239-3400  
 Lena Roberts, Litigation Division, (512) 239-3400  
 Rudy Calderon, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Jennifer Graves, Enforcement Division, (956) 430-6023  
**TCEQ Regional Contact:** Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5700  
**Respondent Contact:** The Honorable Thomas Bancroft, Mayor, Town of Mustang, 5910 West Highway 31, Corsicana, Texas 75110  
**Respondent's Attorney:** Marty D. Price, 2514 Boll Street, Dallas, Texas 75204



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	14-May-2014		
	<b>PCW</b>	9-Mar-2015	<b>Screening</b>	14-May-2014
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Town of Mustang
<b>Reg. Ent. Ref. No.</b>	RN102807864
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	48660	<b>No. of Violations</b>	4
<b>Docket No.</b>	2014-0688-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>	Jennifer Graves
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$16,250
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	20.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$3,250

Notes: Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and four months of self-reported effluent violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$2,396  
 Approx. Cost of Compliance: \$40,500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$19,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

<b>Final Penalty Amount</b>	\$19,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$19,500
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$19,500
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**Screening Date** 14-May-2014

**Docket No.** 2014-0688-MWD-E

**PCW**

**Respondent** Town of Mustang

*Policy Revision 4 (April 2014)*

**Case ID No.** 48660

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN102807864

**Media [Statute]** Water Quality

**Enf. Coordinator** Jennifer Graves

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and four months of self-reported effluent violations.

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

>> **Final Compliance History Adjustment**

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

Screening Date 14-May-2014

Docket No. 2014-0688-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 4 (April 2014)

Case ID No. 48660

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 319.11(b) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011516001, Monitoring and Reporting Requirements Nos. 1, 2, and 3(c)

Violation Description

Failed to document that samples are being analyzed within the required holding time and failed to conduct the chlorine residual analysis at the frequency specified in the permit, as documented in a record review conducted on April 22, 2014. Specifically, holding time requirements for chlorine residual, pH, and dissolved oxygen analysis were not able to be determined because the operator did not keep a log indicating the time samples were collected. In addition, the chlorine residual was not analyzed five times per week.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

22 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One monthly event is recommended from the record review date (April 22, 2014) to the screening date (May 14, 2014).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th 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 \$18

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

# Economic Benefit Worksheet

**Respondent** Town of Mustang  
**Case ID No.** 48660  
**Reg. Ent. Reference No.** RN102807864  
**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	\$250	24-Sep-2013	23-Feb-2015	1.42	\$18	n/a	\$18
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

The estimated cost to update operational guidance regarding proper sampling protocol and conduct employee training to ensure that analysis requirements are met and self-reporting requirements are properly accomplished, including the documentation of required holding times, the analysis of parameters at the frequency specified in the permit, and the timely submittal of signed and certified monthly DMRs and annual sludge reports. Date required is the date of the initial investigation. 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

\$250

**TOTAL**

\$18

**Screening Date** 14-May-2014 **Docket No.** 2014-0688-MWD-E **PCW**  
**Respondent** Town of Mustang *Policy Revision 4 (April 2014)*  
**Case ID No.** 48660 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN102807864  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jennifer Graves

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 30.331(b) and 305.125(1) and TPDES Permit No. WQ0011516001, Other Requirements No. 1

**Violation Description** Failed to employ or contract with one or more licensed wastewater treatment facility operators who holds a Class "D" or higher wastewater license or wastewater system operation companies, as documented during a record review conducted on April 22, 2014.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text" value="x"/>	<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** Failure to employ or contract a licensed individual to operate the Facility could result in poor operation of the Facility, which in turn could result in human health or the environment being exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of this violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One monthly event is recommended from the record review date (April 22, 2014) to the screening date (May 14, 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 type="text" value="x"/>	(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** Town of Mustang  
**Case ID No.** 48660  
**Reg. Ent. Reference No.** RN102807864  
**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)	\$20,000	14-May-2014	23-Feb-2015	0.78	\$52	\$1,041	\$1,093
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

Estimated salary of a "D" licensed wastewater operator. Date required is the screening date. 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	\$20,000	22-Apr-2014	14-May-2014	0.06	\$60	\$1,205	\$1,266
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

Estimated cost to hire a licensed wastewater operator. Date required is the record review date. Final date is the screening date.

Approx. Cost of Compliance

\$40,000

**TOTAL**

\$2,359

Screening Date 14-May-2014  
 Respondent Town of Mustang  
 Case ID No. 48660

Docket No. 2014-0688-MWD-E

PCW

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

Reg. Ent. Reference No. RN102807864  
 Media [Statute] Water Quality  
 Enf. Coordinator Jennifer Graves

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit the discharge monitoring reports ("DMRs") for the monitoring periods ending August 31, 2013 through March 31, 2014 by the 20th day of the following month, as documented during a record review conducted on May 9, 2014.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

100% of the rule requirements were not met.

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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Eight single events are recommended.

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="text" value="x"/>	(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** Town of Mustang  
**Case ID No.** 48660  
**Reg. Ent. Reference No.** RN102807864  
**Media** Water Quality  
**Violation No.** 3

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)	\$200	20-Sep-2013	23-Feb-2015	1.43	\$14	n/a	\$14

**Notes for DELAYED costs**  
 The estimated cost to prepare and submit the DMRs (\$25 x 8 DMRs = \$200). Date required is the date the first DMR was due. Final date is the expected date of compliance. 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**

<b>Approx. Cost of Compliance</b>	\$200	<b>TOTAL</b>	\$14
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Screening Date 14-May-2014

Docket No. 2014-0688-MWD-E

PCW

Respondent Town of Mustang

Policy Revision 4 (April 2014)

Case ID No. 48660

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102807864

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0011516001, Sludge Provisions

Violation Description

Failed to submit the annual sludge report for the monitoring period ending July 31, 2013, as documented during a record review conducted on May 9, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

# Economic Benefit Worksheet

**Respondent** Town of Mustang  
**Case ID No.** 48660  
**Reg. Ent. Reference No.** RN102807864  
**Media** Water Quality  
**Violation No.** 4

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)	\$50	1-Sep-2013	23-Feb-2015	1.48	\$0	\$5	\$5
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**   Estimated cost of preparing and submitting the annual sludge report. Date required is the date the report was due. Final date is the expected date of compliance. Also 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   \$50

**TOTAL**   \$5

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.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600796221, RN102807864, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600796221, Town of Mustang **Classification:** SATISFACTORY **Rating:** 42.80  
**Regulated Entity:** RN102807864, Town of Mustang MHP **Classification:** SATISFACTORY **Rating:** 42.80  
**Complexity Points:** 6 **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** Located 800 feet east of I 45 and FM 739 in Navarro Co, TX  
**TCEQ Region:** REGION 04 - DFW METROPLEX  
**ID Number(s):** **WASTEWATER PERMIT** WQ0011516001  
**WASTEWATER EPA ID** TX0125199  
**WASTEWATER LICENSING LICENSE** WQ0011516001

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

**Date Compliance History Report Prepared:** July 18, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 18, 2009 to July 18, 2014

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

**Name:** Jennifer Graves

**Phone:** (956) 430-6023

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

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

N/A

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

N/A

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

Item 1	August 28, 2009	(821003)	Item 11	May 25, 2012	(1018497)
Item 2	October 19, 2009	(821006)	Item 12	October 24, 2012	(1070354)
Item 3	October 27, 2009	(821009)	Item 13	November 26, 2012	(1070355)
Item 4	November 02, 2010	(870683)	Item 14	January 02, 2013	(1083337)
Item 5	January 18, 2011	(898314)	Item 15	February 04, 2013	(1083338)
Item 6	May 25, 2011	(940049)	Item 16	March 19, 2013	(1083336)
Item 7	September 23, 2011	(967405)	Item 17	May 21, 2013	(1108783)
Item 8	December 01, 2011	(970095)	Item 18	July 03, 2013	(1119302)
Item 9	February 24, 2012	(992697)	Item 19	June 06, 2014	(1182635)
Item 10	February 27, 2012	(1000035)	Item 20	June 20, 2014	(1189510)

### **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: 07/31/2013 (1127053) CN600796221**  
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: 10/31/2013 (1122318) CN600796221**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Other Requirements PERMIT  
Description: Failure to ensure the plant is operated a minimum of five days per week by an operator holding a Category D license or higher.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 317 317.4(a)(8)  
Description: Failure to have the RPBA backflow prevention device tested annually.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Monitoring and Reporting Reqs. PERMIT

Description: Failure to calibrate the flow meter annually.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to maintain compliance with the permitted effluent limits.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
 Mon. & Rep. Reqs. Nos. 1, 2 & 3(c) PERMIT

Description: Failed to document that the samples are being analyzed within the required holding time and failed to conduct the chlorine residual analysis at the frequency specified in the permit. Specifically, holding time requirements for chlorine residual, pH, and dissolved oxygen analysis were not able to be determined because the operator did not keep a log indicating the time samples were collected. In addition, chlorine residual was not being analyzed five times per week.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Monitoring and Reporting Reqs. PERMIT

Description: Failure to provide notification of effluent permit limit violations.

**3 Date: 10/31/2013 (1182639) CN600796221**  
 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: 12/31/2013 (1182641) CN600796221**  
 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: 01/31/2014 (1182634) CN600796221**  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

**6 Date: 03/12/2014 (1169962) CN600796221**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

**7 Date: 03/25/2014 (1156980) CN600796221**  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Monitoring and Reporting Reqs. PERMIT  
 Description: Failure to comply with the unauthorized discharge reporting requirements.

**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  
TOWN OF MUSTANG;  
RN102807864**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2014-0688-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Town of Mustang ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent represented by Marty D. Price, Attorney at Law, together stipulate that:

1. Respondent owns and operates a wastewater treatment plant located 800 feet east of U.S. Interstate 45 and Farm-to-Market Road 739 in Navarro County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, 7.070, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of nineteen thousand five hundred dollars (\$19,500.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one hundred six dollars (\$106.00) of the penalty. The remaining amount of nineteen thousand three hundred ninety-four dollars (\$19,394.00) shall be paid in seventeen (17) monthly payments of one hundred dollars (\$100.00) each followed by eighteen (18) monthly payments of nine hundred eighty-three dollars (\$983) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.

## **II. ALLEGATIONS**

1. During a record review conducted on April 22, 2014, an investigator documented that Respondent:
  - a. Failed to document that samples are being analyzed within the required holding time and failed to conduct the chlorine residual analysis at the frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE § 319.11(b) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011516001, Monitoring and Reporting Requirements Nos. 1, 2, and 3(c). Specifically, holding time requirements for chlorine residual, pH, and dissolved oxygen analysis were not able to be determined because the operator did not keep a log indicating the time samples were collected. In addition, the chlorine residual was not being analyzed five times per week; and
  - b. Failed to employ or contract with one or more licensed wastewater treatment facility operators who holds a Class "D" or higher wastewater license or wastewater system operation companies, in violation of 30 TEX. ADMIN. CODE §§ 30.331(b) and 305.125(1) and TPDES Permit No. WQ0011516001, Other Requirements No. 1.
2. During a record review conducted on May 9, 2014 an investigator documented that Respondent:
  - a. Failed to submit the discharge monitoring reports ("DMRs") for the monitoring periods ending August 31, 2013 through March 31, 2014 by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements No. 1; and
  - b. Failed to submit the annual sludge report for the monitoring period ending July 31, 2013, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0011516001, Sludge Provisions.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

#### IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Town of Mustang, Docket No. 2014-0688-MWD-E" to:

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

2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Ensure that the Facility is operated a minimum of five days per week by a licensed chief operator or operator holding a Class "D" or higher wastewater license, in accordance with 30 TEX. ADMIN. CODE §§ 30.350(j) and 305.125(1) and TPDES Permit No. WQ0011516001, Other Requirements No. 1.;
    - ii. Begin analyzing effluent samples at the required frequency and within the required holding time, including conducting chlorine residual analysis at the required frequency, in accordance with 30 TEX. ADMIN. CODE § 319.11(b) and TPDES Permit No. WQ0011516001, Monitoring and Reporting Requirements Nos. 1, 2, and 3(c); and
    - iii. Update the Facility's operational guidance and conduct employee training to ensure that effluent analysis requirements are met and self-reporting requirements are properly accomplished, including the documentation of required holding times for effluent samples and timely submittal of signed and certified monthly DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0011516001.
  - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i., 2.a.ii., and 2.a.iii. The certification shall include detailed supporting documentation, including photographs, receipts, and/or other records and shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

  
For the Executive Director

October 28, 2015  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
Signature - The Honorable Thomas Bancroft, Mayor  
Town of Mustang  
5910 West Highway 31  
Corsicana, Texas 75110

9-12-15  
Date

If mailing address has changed, please check this box and provide the new address below:

(N.A) same as above