

Executive Summary – Enforcement Matter – Case No. 48548

City of Denison

RN102992567

Docket No. 2014-0532-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Paw Paw Plant, located east of the City of Denison, approximately 1600 feet east and 2,200 feet north of the intersection of Center Street and Farm-to-Market Road 120, Grayson County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 3, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,818

Amount Deferred for Expedited Settlement: \$2,363

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,455

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

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City of Denison
RN102992567
Docket No. 2014-0532-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 6, 2014

Date(s) of NOE(s): March 31, 2014

Violation Information

1. Failed to submit a modification to the Facility's pretreatment program containing all required streamlining rule provisions to the Executive Director within 12 months of the date the permit was issued [30 TEX. ADMIN. CODE §§ 305.125(1) and 315.1, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements No. 1].
2. Failed to implement an approved enforcement response plan ("ERP") that describes the type of escalating enforcement processes the Respondent will take in response to all industrial user ("IU") violations. Specifically, the Respondent failed to consistently issue notice of violations ("NOVs") within 15 days of notification of self-monitoring violations from IUs. Additionally, even though two IUs received multiple NOVs for same or similar violations, no escalation of enforcement had taken place. Additionally, an IU was designated to be in significant noncompliance ("SNC") during the 2013-2014 pretreatment year, also requiring escalation of enforcement. Notice of self-monitoring violation submitted by Ruiz Foods was received by the Respondent on May 13, 2013, and the corresponding NOV was not mailed until September 17, 2013. Additionally, even though IUs received multiple NOVs for same or similar violations, no escalation of enforcement had taken place. During the October 2012 to September 2013 pretreatment year, the Respondent issued three NOVs to Champion Cooler and four NOVs to Ruiz Foods for same or similar violations, neither of which resulted in escalated enforcement. Additionally, Denison Industries was designated be in SNC during the first quarter of the pretreatment year, also requiring escalation of enforcement [30 TEX. ADMIN. CODE § 315.1, 40 CODE OF FEDERAL REGULATIONS ("CFR") § 403.8(f)(5)(ii), and TPDES Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements Nos. 1(c) and (d)].
3. Failed to analyze self-monitoring reports and implement procedures to ensure compliance with the requirements of a pretreatment program. Specifically, the Respondent failed to identify and enforce against an IU for failing to report samples taken in addition to the minimum requirement [40 CFR §§ 403.12(g)(6) and 403.8(f)(2)(iv), and TPDES Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements No. 1(d)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By or on March 21, 2014, the Respondent issued an NOV to industrial user, Ruiz Foods, for failure to report all pH samples collected

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, begin consistently conducting the escalation of enforcement for all IUs as required by the ERP, and ensure the enforcement actions are issued in a timely manner in accordance with the ERP;
- b. Within 30 days, conduct employee training to ensure that the ERP and pretreatment enforcement escalation and notification requirements are properly conducted;
- c. Within 45 days, submit written certification of compliance with Ordering Provision b, in accordance with Ordering Provision i below;
- d. Within 60 days, initiate escalated enforcement for all IUs which have received repeated NOVs for same or similar violations or are designated to be in SNC;
- e. Within 75 days, submit written certification of compliance with Ordering Provision d, in accordance with Ordering Provision i below;
- f. Within 180 days, submit the required pretreatment streamlining modification documentation to the TCEQ;
- g. Within 195 days, submit written certification of compliance with Ordering Provision f, in accordance with Ordering Provision i below; and
- i. The certifications required by Ordering Provision c, e, and g, shall be notarized by a State of Texas Notary Public.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jason Fraley, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2552; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Robert Hanna, City Manager, City of Denison, P.O. Box 347, Denison,
Texas 75021

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	10-Apr-2014	Screening	10-Apr-2014	EPA Due	
	PCW	11-Apr-2014				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Denison		
Reg. Ent. Ref. No.	RN102992567		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	48548	No. of Violations	3
Docket No.	2014-0532-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Remington Burkland
		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	\$12,500
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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	8.0% Enhancement	Subtotals 2, 3, & 7	\$1,000
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Notes: Enhancement for two months of self-reported effluent violations and two NOV's with dissimilar 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	-\$437
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,054; Approx. Cost of Compliance: \$13,450; *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,063
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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	\$13,063
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,063
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,612
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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	\$10,451
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Screening Date 10-Apr-2014

Docket No. 2014-0532-MWD-E

PCW

Respondent City of Denison

Case ID No. 48548

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102992567

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

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>)	0	0%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 8%

>> 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 two months of self-reported effluent violations and two NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 8%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 8%

Screening Date 10-Apr-2014

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PCW

Respondent City of Denison

Policy Revision 4 (April 2014)

Case ID No. 48548

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102992567

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 315.1, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements No. 1

Violation Description Failed to submit a modification to the Facility's pretreatment program containing all required streamlining rule provisions to the Executive Director within 12 months of the date the permit was issued, as documented during an investigation conducted on February 6, 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 15.0%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

434 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$916

Violation Final Penalty Total \$4,050

This violation Final Assessed Penalty (adjusted for limits) \$4,050

Economic Benefit Worksheet

Respondent City of Denison
Case ID No. 48548
Reg. Ent. Reference No. RN102992567
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Jan-2013	1-Dec-2014	1.83	\$916	n/a	\$916

Notes for DELAYED costs

Estimated cost to submit the streamlining modification documentation. Date required is the date the modification documentation was due. Final date is the estimated 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	\$916
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Screening Date 10-Apr-2014

Docket No. 2014-0532-MWD-E

PCW

Respondent City of Denison

Policy Revision 4 (April 2014)

Case ID No. 48548

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102992567

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 315.1, 40 Code of Federal Regulations ("CFR") § 403.8(f)(5)(ii), and TPDES Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements Nos. 1(c) and (d)

Violation Description

Failed to implement an approved enforcement response plan ("ERP") that describes the type of escalating enforcement processes the Respondent will take in response to all industrial user ("IU") violations, as documented during an investigation conducted on February 6, 2014. Specifically, the Respondent failed to consistently issue NOVs within 15 days of notification of self-monitoring violations from IUs. Additionally, even though two IUs received multiple NOVs for same or similar violations, no escalation of enforcement had taken place. Additionally, an IU was designated to be in significant noncompliance ("SNC") during the 2013-2014 pretreatment year, also requiring escalation of enforcement. Notice of a self-monitoring violation submitted by Ruiz Foods was received by the Respondent on May 13, 2013, and the corresponding NOV was not mailed until September 17, 2013. Additionally, even though IUs received multiple NOVs for same or similar violations, no escalation of enforcement had taken place. During the October 2012 to September 2013 pretreatment year, the Respondent issued three NOVs to Champion Cooler and four NOVs to Ruiz Foods for same or similar violations, neither of which resulted in escalated enforcement. Additionally, Denison Industries was designated to be in SNC during the first quarter of the pretreatment year, also requiring escalation of enforcement.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 4

556 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,000

Four single events are recommended (one event for failing to timely issue an NOV and one event for each IU where escalated enforcement was required).

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 \$7,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$135

Violation Final Penalty Total \$7,560

This violation Final Assessed Penalty (adjusted for limits) \$7,560

Economic Benefit Worksheet

Respondent City of Denison
Case ID No. 48548
Reg. Ent. Reference No. RN102992567
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)	\$100	28-May-2013	17-Sep-2013	0.31	\$0	\$2	\$2
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	6-Feb-2014	1-Dec-2014	0.82	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	6-Feb-2014	1-Dec-2014	0.82	\$122	n/a	\$122

Notes for DELAYED costs

Estimated cost for sending an NOV to the Ruiz Foods within 15 days of notice of a self-monitoring violation, to initiate escalated enforcement of multiple same/similar violations and the SNC designation, and conduct employee training to ensure the ERP and pretreatment enforcement and notification requirements are properly conducted. Dates required are the date the NOV was due and the investigation date. Final dates are the date the NOV was issued and the estimated 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	\$3,350	TOTAL	\$135
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Screening Date 10-Apr-2014

Docket No. 2014-0532-MWD-E

PCW

Respondent City of Denison

Policy Revision 4 (April 2014)

Case ID No. 48548

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102992567

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 315.1, 40 CFR §§ 403.8(f)(2)(iv) and 12(g)(6), and TPDES Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements No. 1(d)

Violation Description

Failed to analyze self-monitoring reports and implement procedures to ensure compliance with the requirements of a pretreatment program, as documented during an investigation conducted on February 6, 2014. Specifically, the Respondent failed to identify and enforce against an IU for failing to report samples taken in addition to the minimum requirement. Ruiz Foods regularly samples and records pH at Outfall 001 but does not report all pH samples collected. The September 16, 2013, IU annual inspection incorrectly documented that Ruiz Foods was reporting all monitoring results and violations.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 1

186 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,750

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$437

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

Notes The Respondent returned to compliance by March 21, 2014.

Violation Subtotal \$1,313

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,453

This violation Final Assessed Penalty (adjusted for limits) \$1,453

Economic Benefit Worksheet

Respondent City of Denison
Case ID No. 48548
Reg. Ent. Reference No. RN102992567
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	16-Sep-2013	21-Mar-2014	0.51	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to identify and enforce pretreatment monitoring requirements for IUs. Date required is the date the violation occurred. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

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 CN600457428, RN102992567, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600457428, City of Denison

Classification: SATISFACTORY

Rating: 0.65

Regulated Entity: RN102992567, PAW PAW PLANT

Classification: SATISFACTORY

Rating: 1.93

Complexity Points: 7

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: Located east of the City of Denison, approximately 1,600 feet east and 2,200 feet north of the intersection of Center Street and Farm-to-Market Road 120 in Grayson County, Texas.

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PRETREATMENT EPA ID TX004722800

PRETREATMENT PERMIT WQ0010079003

WASTEWATER PERMIT WQ0010079003

WASTEWATER EPA ID TX0047228

WASTEWATER LICENSING LICENSE WQ0010079003

Compliance History Period: September 01, 2008 to August 31, 2013

Rating Year: 2013

Rating Date: 09/01/2013

Date Compliance History Report Prepared: April 10, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 10, 2009 to April 10, 2014

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

Name: Remington Burklund

Phone: (512) 239-2611

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 15, 2009	(769861)
Item 2	May 19, 2009	(809085)
Item 3	June 18, 2009	(809086)
Item 4	August 17, 2009	(809087)
Item 5	September 17, 2009	(809088)
Item 6	October 19, 2009	(809089)
Item 7	November 23, 2009	(809090)

Item 8	December 17, 2009	(809091)
Item 9	February 18, 2010	(809084)
Item 10	March 17, 2010	(832475)
Item 11	April 15, 2010	(832476)
Item 12	May 20, 2010	(832477)
Item 13	June 14, 2010	(846764)
Item 14	July 12, 2010	(861289)
Item 15	August 18, 2010	(867440)
Item 16	September 16, 2010	(874462)
Item 17	October 28, 2010	(882043)
Item 18	December 15, 2010	(888510)
Item 19	December 17, 2010	(896851)
Item 20	January 18, 2011	(902809)
Item 21	February 17, 2011	(909650)
Item 22	March 17, 2011	(916871)
Item 23	May 18, 2011	(938585)
Item 24	June 16, 2011	(945957)
Item 25	July 14, 2011	(953212)
Item 26	August 15, 2011	(959853)
Item 27	September 19, 2011	(965894)
Item 28	October 17, 2011	(971936)
Item 29	November 17, 2011	(978102)
Item 30	December 15, 2011	(984872)
Item 31	February 14, 2012	(998526)
Item 32	March 19, 2012	(1004058)
Item 33	April 13, 2012	(1010624)
Item 34	May 14, 2012	(1016999)
Item 35	June 18, 2012	(1024759)
Item 36	July 16, 2012	(1032119)
Item 37	August 13, 2012	(1038546)
Item 38	September 19, 2012	(1047405)
Item 39	October 15, 2012	(1063630)
Item 40	November 13, 2012	(1063631)
Item 41	December 17, 2012	(1063632)
Item 42	January 16, 2013	(1080188)
Item 43	February 19, 2013	(1080187)
Item 44	March 11, 2013	(1089885)
Item 45	July 12, 2013	(1117759)
Item 46	August 19, 2013	(1125548)
Item 47	September 10, 2013	(1153775)
Item 48	September 20, 2013	(1130116)
Item 49	October 18, 2013	(1135866)
Item 50	November 18, 2013	(1141259)
Item 51	December 19, 2013	(1147724)

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: 04/15/2013 (1085599) CN600457428
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with the self-monitoring permit limitations.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failed to prevent the discharge of solids to the receiving stream.

- 2 Date: 04/30/2013 (1107224) CN600457428
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: 05/31/2013 (1110871) CN600457428
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: 06/26/2013 (1085599) CN600457428
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010079-003 PERMIT
Description: Failure to notify TCEQ of significant effluent violations.

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 DENISON
RN102992567**

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

**AGREED ORDER
DOCKET NO. 2014-0532-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 Denison ("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 east of the City of Denison, approximately 1,600 feet east and 2,200 feet north of the intersection of Center Street and Farm-to-Market Road 120 in Grayson 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 or about April 5, 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 Thirteen Thousand Sixty-Three Dollars (\$13,063) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Four Hundred Fifty-

One Dollars (\$10,451) of the administrative penalty and Two Thousand Six Hundred Twelve Dollars (\$2,612) 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 or on March 21, 2014, the Respondent issued a notice of violation ("NOV") to industrial user, Ruiz Foods, for failure to report all pH samples collected.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to submit a modification to the Facility's pretreatment program containing all required streamlining rule provisions to the Executive Director within 12 months of the date the permit was issued, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 315.1, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements No. 1, as documented during an investigation conducted on February 6, 2014.
2. Failed to implement an approved enforcement response plan ("ERP") that describes the type of escalating enforcement processes the Respondent will take in response to all industrial user ("IU") violations, in violation of 30 TEX. ADMIN. CODE § 315.1, 40 CODE OF FEDERAL REGULATIONS ("CFR") § 403.8(f)(5)(ii), and TPDES Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements Nos. 1(c) and (d), as documented during an investigation conducted on February 6, 2014. Specifically, the Respondent failed to consistently issue NOVs within 15 days of notification of self-

monitoring violations from IUs. Additionally, even though two IUs received multiple NOV's for same or similar violations, no escalation of enforcement had taken place. Additionally, an IU was designated to be in significant noncompliance ("SNC") during the 2013-2014 pretreatment year, also requiring escalation of enforcement. Notice of self-monitoring violation submitted by Ruiz Foods was received by the Respondent on May 13, 2013, and the corresponding NOV was not mailed until September 17, 2013. Additionally, even though IUs received multiple NOV's for same or similar violations, no escalation of enforcement had taken place. During the October 2012 to September 2013 pretreatment year, the Respondent issued three NOV's to Champion Cooler and four NOV's to Ruiz Foods for same or similar violations, neither of which resulted in escalated enforcement. Additionally, Denison Industries was designated be in SNC during the first quarter of the pretreatment year, also requiring escalation of enforcement.

3. Failed to analyze self-monitoring reports and implement procedures to ensure compliance with the requirements of a pretreatment program, in violation of 30 TEX. ADMIN. CODE § 315.1, 40 CFR §§ 403.12(g)(6) and 403.8(f)(2)(iv), and TPDES Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements No. 1(d), as documented during an investigation conducted on February 6, 2014. Specifically, the Respondent failed to identify and enforce against an IU for failing to report samples taken in addition to the minimum requirement.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Denison, Docket No. 2014-0532-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, conduct employee training to ensure that the ERP and pretreatment enforcement escalation and notification requirements are properly conducted;

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.g below;
- c. Within 60 days after the effective date of this Agreed Order, initiate escalated enforcement for all IUs which have received repeated NOVs for same or similar violations or are designated to be in SNC;
- d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c, in accordance with Ordering Provision No. 2.g below;
- e. Within 180 days after the effective date of this Agreed Order, submit the required pretreatment streamlining modification documentation to the TCEQ, in accordance with 40 CFR § 403.8 and TPDES Permit No. WQ0010079003, Contributing Industries and Pretreatment Requirements No. 1;
- f. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.e, in accordance with Ordering Provision No. 2.g below; and
- g. The certifications required by Ordering Provision Nos. 2.b, 2.d, and 2.f, 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

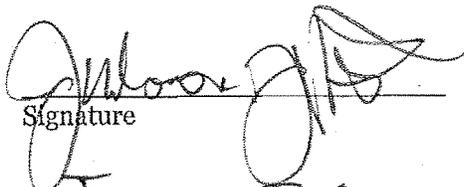
11/19/15
Date

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
J. Wayne J. Rex
Name (Printed or typed)
Authorized Representative of
City of Denison

7/9/15
Date
CITY MANAGER
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.