

Executive Summary – Enforcement Matter – Case No. 50827

William Donald Smith

RN101701555

Docket No. 2015-1061-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Kingmont MHP WWTP, 10706 Cora Street, approximately 0.75 mi west of the intersection of State Hwy 289 and Veteran Memorial Parkway in Harris 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 16, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,375

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,375

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 50827
William Donald Smith
RN101701555
Docket No. 2015-1061-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 28, 2015
Date(s) of NOE(s): July 2, 2015

Violation Information

1. Failed to comply with permitted effluent limitations for total residual chlorine, ammonia nitrogen, and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013770001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].
2. Failed to give notice to the Executive Director before physical alterations or additions were made to the Facility [30 TEX. ADMIN. CODE §§ 305.125(7) and 305.126(b) and TPDES Permit No. WQ0013770001, Permit Conditions No. 4.a.].
3. Failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0013770001, Operational Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 4, 2015, the Respondent repaired the back-up blower at the Facility.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, submit a notice that physical alterations or additions to the Facility have occurred;
- b. Within 45 days, submit written certification of compliance with a.; and
- c. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013770001, 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.

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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: Alejandro Laje, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2547; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: William D. Smith, Owner, 10706 Cora Street Trailer 71, Houston, Texas
77088
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	4-Jul-2015	Screening	14-Jul-2015	EPA Due	
	PCW	20-Jul-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	William Donald Smith
Reg. Ent. Ref. No.	RN101701555
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	50827	No. of Violations	3
Docket No.	2015-1061-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Alejandro Laje
		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	\$6,250
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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	55.0% Enhancement	Subtotals 2, 3, & 7	\$3,437
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Notes: Enhancement for two months of self-reported effluent violations, one NOV with same or similar violations and two orders with denial of liability.

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	-\$312
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,023
Estimated Cost of Compliance	\$14,850

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,375
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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 \$9,375

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,375
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$9,375
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Screening Date 14-Jul-2015

Docket No. 2015-1061-MWD-E

PCW

Respondent William Donald Smith

Policy Revision 4 (April 2014)

Case ID No. 50827

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101701555

Media [Statute] Water Quality

Enf. Coordinator Alejandro Laje

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>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 55%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for two months of self-reported effluent violations, one NOV with same or similar violations and two orders with denial of liability.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 55%

Screening Date 14-Jul-2015
Respondent William Donald Smith
Case ID No. 50827
Reg. Ent. Reference No. RN101701555
Media [Statute] Water Quality
Enf. Coordinator Alejandro Laje

Docket No. 2015-1061-MWD-E

PCW

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

Violation Number

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013770001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description

Failed to comply with permitted effluent limitations, as documented during an investigation conducted on April 28, 2015, and shown in the attached effluent parameter violation table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="X"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total chlorine residual and *Escherichia coli* were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="X"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Three quarterly events are recommended.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/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 William Donald Smith
Case ID No. 50827
Reg. Ent. Reference No. RN101701555
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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-May-2014	31-May-2016	2.00	\$1,001	n/a	\$1,001

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance and the final date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$1,001

Screening Date 14-Jul-2015
Respondent William Donald Smith
Case ID No. 50827
Reg. Ent. Reference No. RN101701555
Media [Statute] Water Quality
Enf. Coordinator Alejandro Laje

Docket No. 2015-1061-MWD-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Violation Number 2
Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(7) and 305.126(b) and TPDES Permit No. WQ0013770001, Permit Conditions No. 4.a.

Violation Description

Failed to give notice to the Executive Director before physical alterations or additions were made to the Facility, as documented during an investigation conducted on April 28, 2015. Specifically, a new sludge holding tank was installed without providing notice to the Executive Director.

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 rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events: 1 77 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 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$1,938

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

Economic Benefit Worksheet

Respondent William Donald Smith
Case ID No. 50827
Reg. Ent. Reference No. RN101701555
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$350	28-Apr-2015	1-Apr-2016	0.93	\$16	n/a	\$16
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit notice of physical alterations or additions made to the Facility, including engineering plans and specifications. Date required is the date of the investigation and the final date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$350

TOTAL \$16

Screening Date 14-Jul-2015
Respondent William Donald Smith
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Reg. Ent. Reference No. RN101701555
Media [Statute] Water Quality
Enf. Coordinator Alejandro Laje

Docket No. 2015-1061-MWD-E

PCW

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

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0013770001, Operational Requirements No. 1.

Violation Description

Failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, as documented during an investigation conducted on April 28, 2015. Specifically, the back-up blower was inoperable.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential		X			

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Major	Moderate	Minor	
				0.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events: 1 6 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

25.0%

Reduction \$312

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent achieved compliance by May 4, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,626

This violation Final Assessed Penalty (adjusted for limits) \$1,626

Economic Benefit Worksheet

Respondent William Donald Smith
Case ID No. 50827
Reg. Ent. Reference No. RN101701555
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$4,500	28-Apr-2015	4-May-2015	0.02	\$0	\$5	\$5
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the back-up blower. Date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$4,500

TOTAL

\$5

William Donald Smith
Docket No. 2015-1061-MWD-E
TPDES Permit No. WQ0013770001

Effluent Parameter Violation Table

Monitoring Period	NH ₃ -N	NH ₃ -N	NH ₃ -N	<i>E. coli</i>	<i>E. coli</i>	TCR
	Daily Avg. Conc.	Daily Avg. Conc.	Single Grab Conc.	Daily Avg. Conc.	Single Grab Conc.	Single Grab Max.
	Limit	Limit	Limit	Limit	Limit	Limit
	3 mg/L	5 mg/L	15 mg/L	126 CFU/100 ml	394 CFU/100 ml	4.0 mg/L
May 2014	15.7	c	36.8	c	c	c
July 2014	8.3	c	40	1,986.3	1,986.3	c
December 2014	c	5.3	26	c	c	c
April 28, 2015*	c	c	c	c	c	5.23

NH₃-N = ammonia nitrogen

E. coli = *Escherichia coli*

TCR = total chlorine residual

CFU = colony forming units

ml = milliliters

*region documented grab sample

mg/L = milligrams per liter

Avg. = average

Conc. = concentration

Max. = maximum

c = compliant

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Compliance History Report

PUBLISHED Compliance History Report for CN600919559, RN101701555, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600919559, William Donald Smith **Classification:** SATISFACTORY **Rating:** 6.31

Regulated Entity: RN101701555, KINGMONT MHP WWTP **Classification:** SATISFACTORY **Rating:** 9.73

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 10706 CORA STREET, APPROXIMATELY 0.75 MILE WEST OF THE INTERSECTION OF STATE HIGHWAY 289 AND VETERAN MEMORIAL PARKWAY IN HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
WASTEWATER PERMIT WQ0013770001 **WASTEWATER EPA ID** TX0124257

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: July 13, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 13, 2010 to July 13, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Alejandro Laje **Phone:** (512) 239-2547

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: 06/20/2011 | ADMINORDER 2011-0023-MWD-E (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| | Rqmt Prov: Effluent Limits PERMIT | |
| | Description: Failure to comply with permit effluent limits for ammonia nitrogen as documented by a TCEQ record review of self-reported data. | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 305, SubChapter F 305.125(17) | |
| | 30 TAC Chapter 319, SubChapter A 319.1 | |
| | Rqmt Prov: Effluent Reporting Requirements PERMIT | |
| | Description: Failure to submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review. | |
| 2 | Effective Date: 04/18/2014 | ADMINORDER 2013-1678-MWD-E (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | |

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	August 17, 2010	(869045)
Item 2	September 23, 2010	(875904)
Item 3	October 21, 2010	(883486)
Item 4	November 30, 2010	(931024)
Item 5	January 04, 2011	(904127)
Item 6	March 10, 2011	(918285)
Item 7	March 31, 2011	(918286)
Item 8	April 25, 2011	(931023)
Item 9	May 19, 2011	(940004)
Item 10	June 23, 2011	(947405)
Item 11	September 06, 2011	(967347)
Item 12	September 23, 2011	(967348)
Item 13	October 13, 2011	(973297)
Item 14	November 11, 2011	(979427)
Item 15	December 14, 2011	(986272)
Item 16	January 13, 2012	(992651)
Item 17	February 16, 2012	(999987)
Item 18	March 20, 2012	(1005496)
Item 19	April 18, 2012	(1012055)
Item 20	May 10, 2012	(1018449)
Item 21	June 11, 2012	(1026155)
Item 22	June 21, 2012	(1018450)
Item 23	July 12, 2012	(1033513)
Item 24	August 20, 2012	(1040038)
Item 25	September 12, 2012	(1049012)
Item 26	October 10, 2012	(1070210)
Item 27	November 12, 2012	(1070211)
Item 28	December 11, 2012	(1070212)
Item 29	January 18, 2013	(1083243)
Item 30	February 14, 2013	(1083242)
Item 31	March 13, 2013	(1091370)
Item 32	April 15, 2013	(1097710)
Item 33	May 13, 2013	(1108739)
Item 34	August 22, 2013	(1127007)
Item 35	October 15, 2013	(1137290)
Item 36	November 14, 2013	(1142715)
Item 37	December 18, 2013	(1149130)
Item 38	January 16, 2014	(1155231)
Item 39	February 14, 2014	(1162541)
Item 40	March 18, 2014	(1169157)
Item 41	April 15, 2014	(1176348)
Item 42	July 25, 2014	(1194821)
Item 43	September 15, 2014	(1207773)
Item 44	October 20, 2014	(1214176)
Item 45	November 21, 2014	(1220407)
Item 46	December 22, 2014	(1226238)
Item 47	February 20, 2015	(1244225)
Item 48	March 30, 2015	(1250614)
Item 49	April 23, 2015	(1257508)

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: 07/15/2014 (1170148) CN600919559
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Eff Limit & Monit Req No. 2 PERMIT
 Description: Failed to maintain compliance with the permitted effluent limits.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Monit & Report Req No. 3b PERMIT
 Description: Failed to make all monitoring and reporting records readily available to TCEQ personnel.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.1
 Description: Failed to accurately complete the discharge monitoring reports (DMRs).
- 2 Date: 07/31/2014 (1201472) CN600919559
 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: 12/31/2014 (1233323) CN600919559
 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

Component Appendices

Appendix A

All NOV's Issued During Component Period 7/13/2010 and 7/13/2015

- 1 Date: 07/31/2010 (869046) CN600919559
Classification: Moderate
Self Report? YES For Informational Purposes Only
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: 10/19/2011 (923377) CN600919559
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failed to properly maintain the chlorine contact basin. Specifically, the chlorine contact basin contained 9 inches of sludge in a total water depth of 9 feet. The sludge from the chlorine contact basin must be removed and disposed of properly to prevent the reduction of capacity in the basin and to prevent sludge from rising and discharging with the effluent.
- 3 Date: 07/17/2012 (989813) CN600919559
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failed to properly maintain the chlorine contact basin. Specifically, the chlorine contact basin contained 6 inches of sludge in a total water depth of 9 feet. The sludge from the chlorine contact basin must be removed and disposed of properly to prevent the reduction of capacity in the basin and to prevent sludge from rising and discharging with the effluent.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failed to submit the discharge monitoring reports (DMRs) as required. Specifically, the DMRs for the months of June 2011 and July 2011 were not in the database. DMRs must be submitted by the 20th day of the month following the monitoring period. Resubmit the DMRs to the Enforcement Division (MC 224) in Austin.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0013770001 PERMIT
Description: Failed to maintain compliance with the permitted effluent limits. Specifically, the grab sample collected during the investigation was not compliant with the single grab limit of 4.0 mg/L for total chlorine residual. The result of the total chlorine residual analysis was 5.65 mg/L. Compliance with the permitted effluent limits must be maintained.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
Description: Failed to collect and analyze effluent samples at the required frequency. Specifically, no samples for carbonaceous biochemical oxygen demand (CBOD), total suspended solids (TSS) and ammonia were collected and analyzed during the last week of March 2012 and no quarterly E. coli samples were collected for the 3rd and 4th quarter of 2011. CBOD, TSS, and ammonia samples are required to be collected and analyzed once per week and the E. coli samples are required to be collected and analyzed once p
- 4 Date: 05/31/2013 (1112306) CN600919559
Classification: Moderate
Self Report? YES For Informational Purposes Only
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: 06/30/2013 (1119258) CN600919559
Classification: Moderate
Self Report? YES For Informational Purposes Only
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: 08/31/2013 (1131547) CN600919559
Classification: Moderate
Self Report? YES For Informational Purposes Only
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

7* Date: 04/30/2014 (1182589) CN600919559
Classification: Moderate
Self Report? YES For Informational Purposes Only
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

8* Date: 05/31/2014 (1189466) CN600919559
Classification: Moderate
Self Report? YES For Informational Purposes Only
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

9* Date: 07/15/2014 (1170148) CN600919559
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Eff Limit & Monit Req No. 2 PERMIT
Description: Failed to maintain compliance with the permitted effluent limits.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 319, SubChapter A 319.7(c)
Monit & Report Req No. 3b PERMIT
Description: Failed to make all monitoring and reporting records readily available to TCEQ
personnel.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.1
Description: Failed to accurately complete the discharge monitoring reports (DMRs).

10* Date: 07/31/2014 (1201472) CN600919559
Classification: Moderate
Self Report? YES For Informational Purposes Only
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

11 Date: 12/31/2014 (1233323) CN600919559
Classification: Moderate
Self Report? YES For Informational Purposes Only
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

* NOVs applicable for the Compliance History rating period 9/1/2009 to 8/31/2014

Appendix B

All Investigations Conducted During Component Period July 13, 2010 and July 13, 2015

Item 1*	August 17, 2010**	(869045) For Informational Purposes Only
Item 2	August 20, 2010**	(869046) For Informational Purposes Only
Item 3*	September 23, 2010**	(875904) For Informational Purposes Only
Item 4*	October 21, 2010**	(883486) For Informational Purposes Only
Item 5*	November 30, 2010**	(931024) For Informational Purposes Only
Item 6	December 10, 2010**	(877708) For Informational Purposes Only
Item 7	December 13, 2010**	(880566) For Informational Purposes Only
Item 8*	January 04, 2011**	(904127) For Informational Purposes Only
Item 9*	March 10, 2011**	(918285) For Informational Purposes Only
Item 10*	March 31, 2011**	(918286) For Informational Purposes Only
Item 11*	April 25, 2011**	(931023) For Informational Purposes Only
Item 12*	May 19, 2011**	(940004) For Informational Purposes Only
Item 13*	June 23, 2011**	(947405) For Informational Purposes Only
Item 14*	September 06, 2011**	(967347) For Informational Purposes Only
Item 15*	September 23, 2011**	(967348) For Informational Purposes Only
Item 16*	October 13, 2011**	(973297) For Informational Purposes Only
Item 17	October 20, 2011**	(923377) For Informational Purposes Only
Item 18*	November 11, 2011**	(979427) For Informational Purposes Only
Item 19*	December 14, 2011**	(986272) For Informational Purposes Only
		(992651)

Item 20* January 13, 2012** For Informational Purposes Only
(999987)

Item 21* February 16, 2012** For Informational Purposes Only
(1005496)

Item 22* March 20, 2012** For Informational Purposes Only
(1012055)

Item 23* April 18, 2012** For Informational Purposes Only
(1018449)

Item 24* May 10, 2012** For Informational Purposes Only
(1026155)

Item 25* June 11, 2012** For Informational Purposes Only
(1018450)

Item 26* June 21, 2012** For Informational Purposes Only
(1033513)

Item 27* July 12, 2012** For Informational Purposes Only
(989813)

Item 28 July 18, 2012** For Informational Purposes Only
(1040038)

Item 29* August 20, 2012** For Informational Purposes Only
(1049012)

Item 30* September 12, 2012** For Informational Purposes Only
(1070210)

Item 31* October 10, 2012** For Informational Purposes Only
(1070211)

Item 32* November 12, 2012** For Informational Purposes Only
(1070212)

Item 33* December 11, 2012** For Informational Purposes Only
(1043285)

Item 34 December 19, 2012** For Informational Purposes Only
(1083243)

Item 35* January 18, 2013** For Informational Purposes Only
(1083242)

Item 36* February 14, 2013** For Informational Purposes Only
(1091370)

Item 37* March 13, 2013** For Informational Purposes Only
(1097710)

Item 38* April 15, 2013** For Informational Purposes Only
(1087128)

Item 39 May 06, 2013** For Informational Purposes Only
(1108739)

Item 40* May 13, 2013** For Informational Purposes Only
(1112306)

Item 41	June 19, 2013**	For Informational Purposes Only (1119258)
Item 42	July 11, 2013**	For Informational Purposes Only (1127007)
Item 43*	August 22, 2013**	For Informational Purposes Only (1113213)
Item 44	August 23, 2013**	For Informational Purposes Only (1131547)
Item 45	September 18, 2013**	For Informational Purposes Only (1137290)
Item 46*	October 15, 2013**	For Informational Purposes Only (1142715)
Item 47*	November 14, 2013**	For Informational Purposes Only (1149130)
Item 48*	December 18, 2013**	For Informational Purposes Only (1155231)
Item 49*	January 16, 2014**	For Informational Purposes Only (1162541)
Item 50*	February 14, 2014**	For Informational Purposes Only (1169157)
Item 51*	March 18, 2014**	For Informational Purposes Only (1176348)
Item 52*	April 15, 2014**	For Informational Purposes Only (1182589)
Item 53	May 16, 2014**	For Informational Purposes Only (1189466)
Item 54	June 17, 2014**	For Informational Purposes Only (1170148)
Item 55	July 16, 2014**	For Informational Purposes Only (1194821)
Item 56*	July 25, 2014**	For Informational Purposes Only (1207773)
Item 57*	September 15, 2014	For Informational Purposes Only (1201472)
Item 58	October 01, 2014	For Informational Purposes Only (1214176)
Item 59*	October 20, 2014	For Informational Purposes Only (1220407)
Item 60*	November 21, 2014	For Informational Purposes Only (1211076)
Item 61	December 11, 2014	For Informational Purposes Only (1226238)

Item 62*	December 22, 2014	For Informational Purposes Only (1233323)
Item 63	January 28, 2015	For Informational Purposes Only (1244225)
Item 64*	February 20, 2015	For Informational Purposes Only (1250614)
Item 65*	March 30, 2015	For Informational Purposes Only (1257508)
Item 66*	April 23, 2015	For Informational Purposes Only (1264271)
Item 67*	May 22, 2015	For Informational Purposes Only (1247208)
Item 68	July 02, 2015	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2009 and 08/31/2014.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WILLIAM DONALD SMITH
RN101701555**

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

**AGREED ORDER
DOCKET NO. 2015-1061-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding William Donald Smith ("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 presented this agreement to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 10706 Cora Street, approximately 0.75 mile west of the intersection of State Highway 289 and Veteran Memorial Parkway in Harris 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. During an investigation conducted on April 28, 2015, TCEQ staff documented the following effluent quality violations:

Effluent Parameter Violation Table						
Monitoring Period	NH₃-N	NH₃-N	NH₃-N	<i>E. coli</i>	<i>E. coli</i>	TCR
	Daily Avg. Conc.	Daily Avg. Conc.	Single Grab Conc.	Daily Avg. Conc.	Single Grab Conc.	Single Grab Max.
	Limit	Limit	Limit	Limit	Limit	Limit
	3 mg/L	5 mg/L	15 mg/L	126 CFU/100 ml	394 CFU/100 ml	4.0 mg/L
May 2014	15.7	c	36.8	c	c	c
July 2014	8.3	c	40	1,986.3	1,986.3	c
December 2014	c	5.3	26	c	c	c
April 28, 2015*	c	c	c	c	c	5.23

NH₃-N = ammonia nitrogen
E. coli = *Escherichia coli*
 TCR = total chlorine residual
 CFU = colony forming units
 ml = milliliters
 *region documented grab sample

mg/L = milligrams per liter
 Avg. = average
 Conc. = concentration
 Max. = maximum
 c = compliant

4. During an investigation conducted on April 28, 2015, TCEQ staff documented that a new sludge holding tank was installed without providing notice to the Executive Director.
5. During an investigation conducted on April 28, 2015, TCEQ staff documented that the back-up blower was inoperable.
6. The Respondent received notice of the violations on or about July 7, 2015.
7. The Executive Director recognizes that by May 4, 2015, the Respondent repaired the back-up blower at the Facility.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013770001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to give notice to the Executive Director before physical alterations or additions were made to the Facility, in violation of 30 TEX. ADMIN. CODE §§ 305.125(7) and 305.126(b) and TPDES Permit No. WQ0013770001, Permit Conditions No. 4.a.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ001377001, Operational Requirements No. 1.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Nine Thousand Three Hundred Seventy-Five Dollars (\$9,375) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Nine Thousand Three Hundred Seventy-Five Dollar (\$9,375) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Nine Thousand Three Hundred Seventy-Five Dollars (\$9,375) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and

shall be sent with the notation "Re: William Donald Smith, Docket No. 2015-1061-MWD-E" to:

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

2. The Respondent shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order, submit a notice that physical alterations or additions to the Facility have occurred, in accordance with TPDES Permit No. WQ0013770001, Permit Conditions No. 4.a. to:

Texas Commission on Environmental Quality
Water Quality Division
Municipal Permits Team, Wastewater Permitting Section, MC 148
P.O. Box 13087
Austin, Texas 78711-3087

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.d. below.

c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013770001, 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. The certification shall be written in accordance with Ordering Provision No. 2.d. below.

d. The written certifications of compliance required by Ordering Provisions Nos. 2.b. and 2.c. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and 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 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.
8. 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.
9. 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.
10. 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. 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

Perma Navire J
For the Executive Director

1/22/16
8-23-2015 ru
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of William Donald Smith. I am authorized to agree to the attached Agreed Order on behalf of William Donald Smith, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, William Donald Smith waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

William D Smith
Signature

8-23-2015
Date

WILLIAM D SMITH
Name (Printed or typed)
Authorized Representative of
William Donald Smith

owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.