

**Executive Summary – Enforcement Matter – Case No. 48750**

**City of Hawk Cove**

**RN104265848**

**Docket No. 2014-0755-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

No

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

City of Hawk Cove WWTP, located at 9543 Morris Drive, 3,600 feet southeast of the intersection of County Road 3613 and County Road 3608, Hunt County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 26, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,000

**Amount Deferred for Expedited Settlement:** \$1,600

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

**Total Paid to General Revenue:** \$275

**Total Due to General Revenue:** \$6,125

Payment Plan: 35 payments of \$175 each

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Unsatisfactory

Site/RN - Unsatisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** May 5, 2014 and May 29, 2014

**Executive Summary – Enforcement Matter – Case No. 48750**  
**City of Hawk Cove**  
**RN104265848**  
**Docket No. 2014-0755-MWD-E**

**Date(s) of NOE(s):** May 9, 2014

***Violation Information***

1. Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater. Specifically, the Facility's existing generator was non-operational [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014522001, Operational Requirements No. 4].
  
2. Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending May 31, 2013, by the 20th day of the following month. Specifically, the DMR did not include analytical results for 5-day carbonaceous biochemical oxygen demand ("CBOD<sub>5</sub>") daily average concentration and daily average loading [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0014522001, Monitoring and Reporting Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Submit a revised DMR for the monitoring period ending May 31, 2013 which includes CBOD<sub>5</sub> daily average concentration and daily average loading analytical results; and
  - ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the submittal of complete DMRs.
  
- b. Within 45 days, submit written certification to demonstrate compliance with a.
  
- c. Within 90 days, provide an operational emergency generator for the Facility.
  
- d. Within 105 days, submit written certification to demonstrate compliance with c.

**Executive Summary – Enforcement Matter – Case No. 48750**  
**City of Hawk Cove**  
**RN104265848**  
**Docket No. 2014-0755-MWD-E**

***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:** Ronica Rodriguez, Enforcement Division,  
Enforcement Team 1, MC 169, (512) 239-2601; Melissa Cordell, Enforcement Division,  
MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** The Honorable Dwain Moore, Mayor, City of Hawk Cove, 1585 Maria  
Street, Quinlan, Texas 75474  
Kristi Turner, City Secretary, City of Hawk Cove, 1585 Maria Street, Quinlan, Texas  
75474  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	3-Jun-2014	Screening	3-Jun-2014	EPA Due	
	PCW	16-Oct-2014				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Hawk Cove		
Reg. Ent. Ref. No.	RN104265848		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	48750	No. of Violations	2
Docket No.	2014-0755-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for eight months of self-reported effluent violations, one NOV with same/similar violations, two NOVs with dissimilar violations, one order with denial of liability, two orders without denial of liability, repeat violator, and unsatisfactory performer status.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance   
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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**

Screening Date 3-Jun-2014

Docket No. 2014-0755-MWD-E

PCW

Respondent City of Hawk Cove

Policy Revision 4 (April 2014)

Case ID No. 48750

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104265848

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	10	20%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 95%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for eight months of self-reported effluent violations, one NOV with same/similar violations, two NOVs with dissimilar violations, one order with denial of liability, two orders without denial of liability, repeat violator, and unsatisfactory performer status.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 130%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 100%

**Screening Date** 3-Jun-2014  
**Respondent** City of Hawk Cove  
**Case ID No.** 48750  
**Reg. Ent. Reference No.** RN104265848  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jennifer Graves  
**Violation Number** 1

**Docket No.** 2014-0755-MWD-E

**PCW**

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

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014522001, Operational Requirements No. 4

**Violation Description** Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater, as documented during a record review conducted on May 5, 2014. Specifically, the Facility's existing generator was non-operational.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes**

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

**Adjustment** \$21,250

\$3,750

**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	x
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty** \$3,750

One monthly event is recommended from the record review date (May 5, 2014) to the screening date (June 3, 2014).

**Good Faith Efforts to Comply**

**0.0%** Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
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** \$1,706

**Violation Final Penalty Total** \$7,500

**This violation Final Assessed Penalty (adjusted for limits)** \$7,500



Screening Date 3-Jun-2014

Docket No. 2014-0755-MWD-E

PCW

Respondent City of Hawk Cove

Policy Revision 4 (April 2014)

Case ID No. 48750

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104265848

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0014522001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending May 31, 2013, by the 20th day of the following month, as documented during a record review conducted on May 29, 2014. Specifically, the DMR did not include analytical results for five-day carbonaceous biochemical oxygen demand daily average concentration and daily average loading.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1.0%
At least 70% of the permit requirements were met.					
Adjustment					\$24,750

\$250

Violation Events

Number of Violation Events 1 31 Number of violation days

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

Violation Base Penalty \$250

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$500

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

## Economic Benefit Worksheet

**Respondent** City of Hawk Cove  
**Case ID No.** 48750  
**Reg. Ent. Reference No.** RN104265848  
**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
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	20-Jun-2013	31-Mar-2015	1.78	\$0	\$3	\$3
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	29-May-2014	31-Mar-2015	0.84	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The estimated cost to prepare and submit a revised DMR. Date required is the date the DMR was due. Final date is the expected date of compliance. The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all self-reporting requirements are properly accomplished, including the submittal of complete DMRs. Date required is the record review date. Final date is the expected date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				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 \$275

TOTAL \$14



# Compliance History Report

PUBLISHED Compliance History Report for CN602626699, RN104265848, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN602626699, City of Hawk Cove      **Classification:** UNSATISFACTORY      **Rating:** 75.31

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**Regulated Entity:** RN104265848, CITY OF HAWK COVE WWTP      **Classification:** UNSATISFACTORY      **Rating:** 106.45

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**Complexity Points:** 7      **Repeat Violator:** YES

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**CH Group:** 08 - Sewage Treatment Facilities

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**Location:** 9543 MORRIS DRIVE, 3600 FT SE OF THE INTERSECTION OF CR 3613 AND CR 3608, HUNT COUNTY, TX

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**TCEQ Region:** REGION 04 - DFW METROPLEX

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**ID Number(s):**  
WASTEWATER PERMIT WQ0014522001      WASTEWATER EPA ID TX0126691

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

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**Date Compliance History Report Prepared:** June 09, 2014

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**Agency Decision Requiring Compliance History:** Enforcement

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**Component Period Selected:** June 09, 2009 to June 09, 2014

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**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Jennifer Graves      **Phone:** (956) 430-6023

## Site and Owner/Operator History:

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

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

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

- 1      Effective Date: 03/08/2010      ADMINORDER 2009-1193-MWD-E (1660 Order-Agreed Order With Denial)  
Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: WQ0014522-001 PERMIT  
Description: Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, as documented during a record review conducted on June 23, 2009.
  
- 2      Effective Date: 09/02/2012      ADMINORDER 2009-2074-MWD-E (Findings Order-After Hearing/Trial)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Rqmt Prov: WQ0014522-001 PERMIT  
Description: Failure to prevent unauthorized discharges from the wastewater plant or collection system.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: WQ0014522-001 PERMIT  
Description: Failure to provide a legible staff gauge.  
Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: WQ0014522-001 PERMIT  
Description: Failure to comply with the noncompliance notification reporting requirements.

- 3 Effective Date: 02/24/2013 ADMINORDER 2011-1708-MWD-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
Rqmt Prov: WQ0014522-001 PERMIT  
Description: Failure to submit the annual sludge reports during September as required.  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
2D TWC Chapter 26, SubChapter A 26.121(c)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Permit Conditions 2.g. PERMIT  
Description: Failure to prevent unauthorized discharges from the wastewater plant or collection system.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: WQ0014522-011 PERMIT  
Description: Failure to ensure flow meter accuracy.  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
2D TWC Chapter 26, SubChapter A 26.121(c)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: AO Prov. No. 2 ORDER  
WQ0014522-001 PERMIT  
Description: Failure to comply with the self-monitoring permit limitations.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
30 TAC Chapter 319, SubChapter A 319.7(d)  
Rqmt Prov: Effluent Reporting Requirements PERMIT  
Description: Failure to submit effluent monitoring results at the intervals specified in the permit.

**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 21, 2009	(821551)
Item 2	August 24, 2009	(766952)
Item 3	September 21, 2009	(821553)
Item 4	October 21, 2009	(821555)
Item 5	November 20, 2009	(821556)
Item 6	March 22, 2010	(836839)
Item 7	May 24, 2010	(836840)
Item 8	August 17, 2010	(862539)
Item 9	September 22, 2010	(876021)
Item 10	April 20, 2011	(931354)
Item 11	October 24, 2011	(973418)
Item 12	August 16, 2012	(1040155)
Item 13	September 20, 2012	(1049141)
Item 14	October 22, 2012	(1070575)
Item 15	November 21, 2012	(1070576)
Item 16	April 22, 2013	(1097827)
Item 17	October 21, 2013	(1137404)

**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: 06/30/2013 (1119374) CN602626699  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 2 Date: 07/31/2013 (1127123) CN602626699  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 3 Date: 08/16/2013 (1099318) CN602626699  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Other Requirements #7 - #13, pgs 32-33 PERMIT  
Description: Failure to comply with Other Requirements #7 through #13, pages 32 and 33, of the  
TPDES permit Issued January 30, 2012.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
WQ0014522-001 PERMIT  
Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or  
inadequately treated wastewater during electrical power failure by means of alternate  
power sources, standby generators, and/or retention of inadequately treated  
wastewater. Specifically, during the July 15, 2013 compliance investigation the existing  
generator was not operational.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
WQ0014522-001 PERMIT  
Description: Failure to prevent the unauthorized discharge of wastewater from the reeration basin.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
WQ0014522-001 PERMIT  
Description: Failure to maintain accuracy of effluent flow measuring device.
  
- 4 Date: 08/31/2013 (1131659) CN602626699  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 5 Date: 10/31/2013 (1142827) CN602626699  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 6 Date: 11/30/2013 (1149242) CN602626699  
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
  
- 7 Date: 12/31/2013 (1155347) CN602626699  
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
  
- 8 Date: 01/24/2014 (1138413) CN602626699  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
TWC Chapter 26 26.121  
Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to

waters in the stream it was determined that sanitary sewer overflow occurred near Christel St. Lift Station occurred on or before November 18, 2013.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)  
TWC Chapter 26 26.039

Description: Failure to notify the TCEQ within 24 hours of becoming aware of an unauthorized discharge from the collection system.

9 Date: 01/31/2014 (1162671) CN602626699  
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

10 Date: 02/28/2014 (1169271) CN602626699  
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

11 Date: 03/07/2014 (1144416) CN602626699  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
2D TWC Chapter 26, SubChapter A 26.121(b)  
2D TWC Chapter 26, SubChapter A 26.121(c)  
2D TWC Chapter 26, SubChapter A 26.121(d)  
2D TWC Chapter 26, SubChapter A 26.121(e)  
30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)(2)  
WQ0014522-001 PERMIT  
Description: Failure to prevent the unauthorized discharge of wastewater from the aeration basin. At the time of the investigation, the RAS line installed near the wall of the aeration tank was causing turbulent along the wall thus resulting in wastewater spill onto the ground.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
WQ0014522-001 PERMIT

Description: Failure to properly maintain the facility. At the time of the investigation, chlorine was leaking onto the ground from the feeder pump, duckweed was accumulating in the treatment units, and sludge was floating in the chlorine contact chamber.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
WQ0014522-001 PERMIT

Description: Failure to provide notification of effluent violation which deviates from the permitted effluent limitation by more than 40 percent. The TCEQ DFW Region Office has not received noncompliance notifications of the E-coll excursions for December 2013 and ammonia nitrogen excursion for October 2013.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
WQ0014522-001 PERMIT

Description: Failure to submit the required documentation to the TCEQ DFW Region Office. A copy of the Ana-Lab results for the week of November 25, 2013 have not been submitted to the region office.

#### 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:

Published Compliance History Report for CN602626699, RN104265848, Rating Year 2013 which includes Compliance History (CH) components from June 09, 2009, through June 09, 2014.

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 HAWK COVE  
RN104265848

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2014-0755-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 Hawk Cove ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located at 9543 Morris Drive, 3,600 feet southeast of the intersection of County Road 3613 and County Road 3608 in Hunt County, Texas (the "Facility").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 14, 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 Eight Thousand Dollars (\$8,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Two Hundred Seventy-Five Dollars (\$275) of the administrative penalty and One Thousand Six Hundred Dollars (\$1,600) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand One Hundred Twenty-Five Dollars (\$6,125) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Seventy-Five Dollars (\$175) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

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

1. Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014522001, Operational Requirements

No. 4, as documented during a record review conducted on May 5, 2014. Specifically, the Facility's existing generator was non-operational.

2. Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending May 31, 2013, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0014522001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on May 29, 2014. Specifically, the DMR did not include analytical results for five-day carbonaceous biochemical oxygen demand ("CBOD<sub>5</sub>") daily average concentration and daily average loading.

### 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 Hawk Cove, Docket No. 2014-0755-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Submit a revised DMR for the monitoring period ending May 31, 2013 which includes CBOD<sub>5</sub> daily average concentration and daily average loading analytical results; and
    - ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the submittal of complete DMRs, in accordance with TPDES Permit No. WQ0014522001.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions Nos. 2.a.i and 2.a.ii, in accordance with Ordering Provision No. 2.e.
- c. Within 90 days after the effective date of this Agreed Order, provide an operational emergency generator for the Facility, in accordance with TPDES Permit No. WQ0014522001, Operational Requirements No. 4.
- d. Within 105 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.e.
- e. Written certification required by Ordering Provisions Nos. 2.b and 2.d shall 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  
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. 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

\_\_\_\_\_  
Date

Pamela M. ...  
For the Executive Director

5/16/16  
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]  
Signature

01/25/2016  
Date

Kristi Turner  
Name (Printed or typed)  
Authorized Representative of  
City of Hawk Cove

City Secretary  
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.