

Executive Summary – Enforcement Matter – Case No. 51664
SOUTHWESTERN PUBLIC SERVICE COMPANY
RN100224641
Docket No. 2015-1849-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Nichols Station Power Plant, located northwest of the intersection of Lakeside Drive and St. Francis Avenue, 1.25 miles west of State Highway 136 and six miles northeast (via State Highway 136) of Amarillo, Potter County

Type of Operation:

Power plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 15, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,750

Amount Deferred for Expedited Settlement: \$3,750

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$15,000

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: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51664
SOUTHWESTERN PUBLIC SERVICE COMPANY
RN100224641
Docket No. 2015-1849-IWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 13, 2015

Date(s) of NOE(s): November 30, 2015

Violation Information

Failed to comply with permitted effluent limits for total iron, pH, oil and grease, total suspended solids, total aluminum, and free available chlorine [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0001990000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, Outfall Nos. 003, 005, 008, and 009].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001990000, 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.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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SOUTHWESTERN PUBLIC SERVICE COMPANY
RN100224641
Docket No. 2015-1849-IWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ronica Rodriguez, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-2601; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: David Hudson, President, SOUTHWESTERN PUBLIC SERVICE
COMPANY, P.O. Box 1261, Amarillo, Texas 79105

David Lorenz, General Manager, SOUTHWESTERN PUBLIC SERVICE COMPANY,
P.O. Box 1261, Amarillo, Texas 79105

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	7-Dec-2015	Screening	15-Dec-2015	EPA Due	5-Mar-2016
	PCW	17-Dec-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	SOUTHWESTERN PUBLIC SERVICE COMPANY
Reg. Ent. Ref. No.	RN100224641
Facility/Site Region	1-Amarillo
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	51664	No. of Violations	1
Docket No.	2015-1849-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ronica Rodriguez
		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	\$15,000
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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	25.0% Adjustment	Subtotals 2, 3, & 7	\$3,750
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Notes: Enhancement for four months of self-reported effluent violations and one NOV with same/similar violation.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$712
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,750
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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	\$18,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,750
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DEFERRAL	20.0% Reduction	Adjustment	-\$3,750
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$15,000
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Screening Date 15-Dec-2015

Docket No. 2015-1849-IWD-E

PCW

Respondent SOUTHWESTERN PUBLIC SERVICE COMPANY

Policy Revision 4 (April 2014)

Case ID No. 51664

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100224641

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

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>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 25%

>> 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 four months of self-reported effluent violations and one NOV with same/similar violation.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 15-Dec-2015

Docket No. 2015-1849-IWD-E

PCW

Respondent SOUTHWESTERN PUBLIC SERVICE COMPANY

Policy Revision 4 (April 2014)

Case ID No. 51664

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100224641

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001990000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, Outfall Nos. 003, 005, 008, and 009

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on October 13, 2015, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violations.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4 Number of violation days 92

Table for event frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$15,000

Four quarterly events are recommended for the quarters containing the months of May 2015, June 2015, and July 2015, one quarter for Outfall No. 003, No. 005, No. 008, and No. 009.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x), and Notes.

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$712

Violation Final Penalty Total \$18,750

This violation Final Assessed Penalty (adjusted for limits) \$18,750

Economic Benefit Worksheet

Respondent SOUTHWESTERN PUBLIC SERVICE COMPANY
Case ID No. 51664
Reg. Ent. Reference No. RN100224641
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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-2015	1-Nov-2016	1.42	\$712	n/a	\$712

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and implement corrective actions. Date required is the initial date of noncompliance. Final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$712

SOUTHWESTERN PUBLIC SERVICE COMPANY
TPDES Permit No. WQ0001990000
Docket No. 2015-1849-IWD-E

Effluent Violation Table									
Months	Permitted Effluent Limits								
	Total Iron Daily Avg. Conc. Limit = 1.0 mg/L	Total Iron Daily Max. Conc. Limit = 1.0 mg/L	pH Max. Conc. Limit = 9.0 s.u.	Total Al Daily Max. Conc. Limit = 1.765 mg/L	Oil and Grease Daily Avg. Conc. Limit = 15 mg/L	Oil and Grease Daily Max. Conc. Limit = 15 mg/L	TSS Daily Avg. Conc. Limit = 86 mg/L	TSS Daily Max. Conc. Limit = 100 mg/L	Free Available Chlorine Daily Avg. Conc. Limit = 0.037 mg/L
Outfall No. 003									
June 2015	2.33	2.33	c	c	c	c	c	c	c
July 2015	1.88	1.88	c	c	c	c	c	c	c
Outfall No. 005									
May 2015	c	c	9.09	c	c	c	c	c	c
June 2015	3.74	3.74	9.07	5.95	17	17	106	106	c
July 2015	1.3221	2.48	9.44	3.02	c	c	c	c	c
Outfall No. 008									
July 2015	4.4656	4.99	c	c	c	c	90.6355	106	0.0426
Outfall No. 009									
May 2015	1.14	1.14	c	c	27	27	c	c	c
June 2015	2.27	2.27	c	2.79	c	c	c	c	c
July 2015	3.82	3.82	c	5.64	50.8	50.8	c	c	c

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

Avg. = average
 s.u. = standard units
 TSS = total suspended solids
 Al = aluminum



Compliance History Report

PUBLISHED Compliance History Report for CN601481336, RN100224641, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN601481336, SOUTHWESTERN PUBLIC SERVICE COMPANY	Classification: SATISFACTORY	Rating: 0.20
Regulated Entity:	RN100224641, NICHOLS STATION POWER PLANT	Classification: SATISFACTORY	Rating: 0.12
Complexity Points:	25	Repeat Violator: NO	
CH Group:	06 - Electric Power Generation		
Location:	Located northwest of the intersection of Lakeside Drive and St. Francis Avenue, 1.25 miles west of State Highway 136 and 6 miles northeast (via State Highway 136) of Amarillo, in Potter County, Texas.		
TCEQ Region:	REGION 01 - AMARILLO		

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER PG0040T
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD007369713
WASTEWATER PERMIT WQ0001990000
UNDERGROUND INJECTION CONTROL PERMIT WDW339
UNDERGROUND INJECTION CONTROL PERMIT WDW341
AIR NEW SOURCE PERMITS ACCOUNT NUMBER PG0040T
AIR NEW SOURCE PERMITS REGISTRATION 15815
AIR NEW SOURCE PERMITS PERMIT 45589
POLLUTION PREVENTION PLANNING ID NUMBER P01477

AIR OPERATING PERMITS PERMIT 13
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30099
WASTEWATER EPA ID TX0124575
UNDERGROUND INJECTION CONTROL PERMIT WDW340
UNDERGROUND INJECTION CONTROL PERMIT WDW342
AIR NEW SOURCE PERMITS AFS NUM 4837500004
AIR NEW SOURCE PERMITS REGISTRATION 75244
AIR EMISSIONS INVENTORY ACCOUNT NUMBER PG0040T

Compliance History Period:	September 01, 2010 to August 31, 2015	Rating Year:	2015	Rating Date:	09/01/2015
Date Compliance History Report Prepared:	January 13, 2016				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	January 12, 2011 to January 12, 2016				

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

Name: Ronica Rodriguez **Phone:** (512) 239-2601

Site and Owner/Operator History:

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

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

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A

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

Item 1	January 13, 2011	(802832)
Item 2	January 19, 2011	(904144)
Item 3	February 03, 2011	(894394)
Item 4	February 24, 2011	(911016)
Item 5	March 22, 2011	(918302)
Item 6	April 25, 2011	(931088)
Item 7	May 23, 2011	(940022)
Item 8	June 22, 2011	(947423)
Item 9	July 18, 2011	(954678)
Item 10	August 12, 2011	(948751)
Item 11	August 22, 2011	(961261)
Item 12	August 31, 2011	(950525)
Item 13	October 20, 2011	(973316)
Item 14	November 22, 2011	(979446)
Item 15	December 19, 2011	(986291)
Item 16	January 18, 2012	(992670)
Item 17	February 16, 2012	(987728)
Item 18	February 21, 2012	(1000005)
Item 19	March 08, 2012	(990287)
Item 20	March 20, 2012	(1005513)
Item 21	April 18, 2012	(1012073)
Item 22	May 10, 2012	(1018468)
Item 23	June 15, 2012	(1026173)
Item 24	July 11, 2012	(1033531)
Item 25	August 03, 2012	(1022526)
Item 26	August 16, 2012	(1040055)
Item 27	September 12, 2012	(1049030)
Item 28	October 11, 2012	(1070262)
Item 29	November 15, 2012	(1070263)
Item 30	November 20, 2012	(1046079)
Item 31	December 05, 2012	(1070264)
Item 32	January 14, 2013	(1083280)
Item 33	February 15, 2013	(1057985)
Item 34	February 28, 2013	(1060247)
Item 35	March 04, 2013	(1091386)
Item 36	April 04, 2013	(1076571)
Item 37	April 08, 2013	(1097727)
Item 38	May 02, 2013	(1108756)
Item 39	June 21, 2013	(1112323)
Item 40	July 24, 2013	(1103996)
Item 41	August 15, 2013	(1127026)
Item 42	October 14, 2013	(1137308)
Item 43	November 08, 2013	(1142731)
Item 44	December 05, 2013	(1149147)
Item 45	January 18, 2014	(1155250)
Item 46	February 15, 2014	(1162558)
Item 47	March 10, 2014	(1169174)
Item 48	March 11, 2014	(1156240)
Item 49	April 03, 2014	(1176364)
Item 50	May 07, 2014	(1182605)
Item 51	May 23, 2014	(1166605)
Item 52	June 10, 2014	(1189482)
Item 53	July 09, 2014	(1201496)
Item 54	August 04, 2014	(1201497)
Item 55	August 15, 2014	(1190868)
Item 56	September 02, 2014	(1207790)
Item 57	October 02, 2014	(1214193)
Item 58	November 11, 2014	(1220423)
Item 59	December 09, 2014	(1226256)

Item 60	January 08, 2015	(1233340)
Item 61	January 28, 2015	(1222204)
Item 62	February 07, 2015	(1244242)
Item 63	March 05, 2015	(1250631)
Item 64	April 08, 2015	(1257525)
Item 65	April 21, 2015	(1246568)
Item 66	May 11, 2015	(1264288)
Item 67	June 15, 2015	(1258755)
Item 68	July 02, 2015	(1260932)
Item 69	July 31, 2015	(1268080)
Item 70	October 03, 2015	(1298398)
Item 71	November 09, 2015	(1303846)

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: 05/31/2015 (1271375) CN601481336
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: 06/30/2015 (1278930) CN601481336
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: 07/31/2015 (1285135) CN601481336
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 4 Date: 08/31/2015 (1292222) CN601481336
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: 12/18/2015 (1288377) CN601481336
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)
Description: The facility failed to prevent an unauthorized discharge. Specifically, on November 4, 2014 approximately 100,000 gallons of industrial wastewater was released due to a pipeline rupture.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOUTHWESTERN PUBLIC
SERVICE COMPANY
RN100224641**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-1849-IWD-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 SOUTHWESTERN PUBLIC SERVICE COMPANY ("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 power plant located northwest of the intersection of Lakeside Drive and St. Francis Avenue, 1.25 miles west of State Highway 136 and six miles northeast (via State Highway 136) of Amarillo, Potter County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 5, 2015.
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 Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Dollars (\$15,000) of the administrative penalty and Three Thousand Seven Hundred Fifty Dollars (\$3,750) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director 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 failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001990000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, Outfall Nos. 003, 005, 008, and 009, as documented during a record review conducted on October 13, 2015, and shown in the violation table below:

Effluent Violation Table									
Months	Permitted Effluent Limits								
	Total Iron Daily Avg. Conc. Limit = 1.0 mg/L	Total Iron Daily Max. Conc. Limit = 1.0 mg/L	pH Max. Conc. Limit = 9.0 s.u.	Total Al Daily Max. Conc. Limit = 1.765 mg/L	Oil and Grease Daily Avg. Conc. Limit = 15 mg/L	Oil and Grease Daily Max. Conc. Limit = 15 mg/L	TSS Daily Avg. Conc. Limit = 86 mg/L	TSS Daily Max. Conc. Limit = 100 mg/L	Free Available Chlorine Daily Avg. Conc. Limit = 0.037 mg/L
Outfall No. 003									
June 2015	2.33	2.33	c	c	c	c	c	c	c
July 2015	1.88	1.88	c	c	c	c	c	c	c
Outfall No. 005									
May 2015	c	c	9.09	c	c	c	c	c	c
June 2015	3.74	3.74	9.07	5.95	17	17	106	106	c
July 2015	1.3221	2.48	9.44	3.02	c	c	c	c	c
Outfall No. 008									
July 2015	4.4656	4.99	c	c	c	c	90.6355	106	0.0426
Outfall No. 009									
May 2015	1.14	1.14	c	c	27	27	c	c	c
June 2015	2.27	2.27	c	2.79	c	c	c	c	c
July 2015	3.82	3.82	c	5.64	50.8	50.8	c	c	c

Mg/L = milligrams per liter
Conc. = concentration
Max. = maximum
c = compliant

Avg. = average
s.u. = standard units
TSS = total suspended solids
Al = aluminum

I. 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: SOUTHWESTERN PUBLIC SERVICE COMPANY, Docket No. 2015-1849-IWD-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 within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001990000, 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 notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

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

Ronnie Rowne Jr

For the Executive Director

9/20/16

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.

David Hudson

Signature

June 14, 2016

Date

David Hudson

Name (Printed or typed)
Authorized Representative of
SOUTHWESTERN PUBLIC SERVICE COMPANY

President Southwestern Public Service Company

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.