

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 3, 2017

The Honorable Mary Ann Obregon
Mayor of Dilley
P.O. Box 230
Dilley, Texas 78017-0230

Re: Proposed Agreed Order
City of Dilley; RN101609048; TPDES Permit No. WQ0010404002
Docket No. 2017-0051-MWD-E; Enforcement Case No. 53698
FOR SETTLEMENT PURPOSES ONLY

Dear Mayor Obregon:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against the City of Dilley for violations of the Texas Water Code and/or Commission Rules. These violations were discovered during a record review conducted on May 3, 2016, and documented in a letter dated May 31, 2016, from the TCEQ Compliance Monitoring Section.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of \$12,250. We are proposing a one-time offer to defer \$2,450 of the administrative penalty if you satisfactorily comply with all the ordering provisions within the time frames listed. Therefore, the administrative penalty to be paid is \$9,800. The order also identifies the violations that we are addressing and identifies specific technical requirements necessary to resolve them.

If you have any questions regarding this matter, we are available to discuss them in a conference in Austin or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register*, and scheduling the matter for approval by the Commission. We believe that handling this matter expeditiously could save the City of Dilley and the TCEQ a significant amount of time, as well as the expense associated with litigation.

Enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order **and** the penalty payment (check payable to "TCEQ" and referencing the City of Dilley, Docket No. 2017-0051-MWD-E) to:

The Honorable Mary Ann Obregon
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February 3, 2017

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

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. Please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount.

You may be able to perform or contribute to a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing an SEP, you must agree to the penalty amount and submit an SEP proposal within 30 days of receipt of this proposed order.** If you are a local government you may have additional SEP options available to assist you with coming into compliance or remediating the harm caused by the violations. A local government is defined as a school district, county, municipality, junior college district, river authority, water district or other special district or other political subdivision created under the constitution or a statute of this state.

For additional information about the types of SEPs available and eligibility criteria, please go to the TCEQ's web site link at <http://www.tceq.texas.gov/legal/sep/> or contact the Enforcement Coordinator listed below.

Please note that any agreements we reach are subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 TEX. ADMIN. CODE ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer, including the penalty deferral, will no longer be available. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70, or any other TCEQ rules, the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI-032) are located on our agency website at <http://www.tceq.texas.gov> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from the Central Office Publications Ordering Team at (512) 239-0028.

The Honorable Mary Ann Obregon
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For any questions or comments about this matter or to arrange a meeting, please contact Mr. Had Darling of my staff at (512) 239-2520.

Sincerely,



Sandy Van Cleave, Manager
Enforcement Division
Texas Commission on Environmental Quality

SV/hd

Enclosures: Proposed Agreed Order, Return Envelope, Penalty Calculation Worksheet, Site Compliance History

The Honorable Mary Ann Obregon
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bcc: Manager, Water Section, San Antonio Regional Office
Mr. Had Darling, Coordinator, Enforcement Division, MC 169
Central Records, MC 213, Building E, 1st Floor
MWD_WQ0010404002_CO_1-12-2017_Proposed Agreed Order
Enforcement Division Electronic Reader File

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF DILLEY
RN101609048

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2017-0051-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 Dilley (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately one mile southwest of the intersection of Interstate Highway 35 and State Highway 85 in Frio County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$12,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,800 of the penalty and \$2,450 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. 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). Any notice and procedures, which might otherwise be authorized or

required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During a record review conducted on May 3, 2016, an investigator documented that the Respondent 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. WQ0010404002, Effluent Limitations and Monitoring Requirements No. 1 (permit in effect through September 30, 2015) and Interim Effluent Limitations and Monitoring Requirements No. 1 (permit in effect beginning October 1, 2015), as shown in the table below:

Effluent Violation Table

Monitoring Period	Permitted Effluent Limits							
	CBOD ₅ Daily Avg. Conc.	CBOD ₅ Daily Avg. Loading	<i>E. coli</i> Daily Avg. Conc.	<i>E. coli</i> Single Grab	<i>E. coli</i> Single Grab	Flow Daily Avg.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	Limit = 30 mg/L	Limit = 75 lbs/day	Limit = 126 CFU/100 mL	Limit = 394 CFU/100 mL	Limit = 399 CFU/100 mL	Limit = 0.3 MGD	Limit = 90 mg/L	Limit = 225 lbs/day
February 2015	c	c	220	436	N/A	c	c	c
March 2015	c	c	563	1119	N/A	0.34	c	c
April 2015	c	c	c	c	N/A	0.368	c	c
May 2015	c	c	157	c	N/A	0.384	c	c
June 2015	c	c	c	c	N/A	0.331	c	c
August 2015	31	c	c	c	N/A	c	104	251
September 2015	31	98	345	410	N/A	0.441	c	c
October 2015	c	87	c	N/A	c	0.492	c	c
November 2015	c	c	179	N/A	c	0.362	c	c
December 2015	c	c	256	N/A	c	0.471	228	228
January 2016	c	85	1210	N/A	2419	0.705	299	299

CBOD₅ = carbonaceous biochemical oxygen demand (five-day)

CFU/100 mL = colony forming units per 100 milliliters

MGD = million gallons per day

mg/L = milligrams per liter

lbs/day = pounds per day

E. coli = *Escherichia coli*

TSS = total suspended solids

c = compliant

N/A = not applicable

Conc. = concentration

Avg. = average

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Dilley, Docket No. 2017-0051-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 within 90 days after the effective date of this Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010404002, 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 the Respondent 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this 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.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This 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 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively,

the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. 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

For the Executive Director

Date

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

I also understand that failure to comply with the Ordering Provisions, 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

Date

Name (Printed or typed)
Authorized Representative of
City of Dilley

Title

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



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	6-Jun-2016	Screening	20-Jun-2016	EPA Due	
	PCW	12-Jan-2017				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Dilley				
Reg. Ent. Ref. No.	RN101609048				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	53698	No. of Violations	2
Docket No.	2017-0051-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Had Darling
		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 **Adjustment** **Subtotals 2, 3, & 7**

Notes

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

Notes

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

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

Total EB Amounts
 Estimated 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.

Notes

PAYABLE PENALTY

Screening Date 20-Jun-2016

Docket No. 2017-0051-MWD-E

PCW

Respondent City of Dilley

Policy Revision 4 (April 2014)

Case ID No. 53698

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101609048

Media [Statute] Water Quality

Enf. Coordinator Had Darling

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	8	40%
	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%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for eight months of self-reported effluent violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 20-Jun-2016

Docket No. 2017-0051-MWD-E

PCW

Respondent City of Dilley

Policy Revision 4 (April 2014)

Case ID No. 53698

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101609048

Media [Statute] Water Quality

Enf. Coordinator Had Darling

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. WQ0010404002, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits as shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate the values for flow and carbonaceous biochemical oxygen demand (five-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Escherichia coli was also considered. The amounts discharged at the time of the violations were significant and did not exceed levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the monitoring period ending January 31, 2016.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Extraordinary		
Ordinary		
N/A	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 \$1,307

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent City of Dilley
Case ID No. 53698
Reg. Ent. Reference No. RN101609048
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
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	28-Feb-2015	9-Oct-2017	2.61	\$1,307	n/a	\$1,307

Notes for DELAYED costs
 Estimated cost to determine the cause of the noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. 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
 (Empty box for notes)

Approx. Cost of Compliance	\$10,000	TOTAL	\$1,307
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Screening Date 20-Jun-2016

Docket No. 2017-0051-MWD-E

PCW

Respondent City of Dilley

Policy Revision 4 (April 2014)

Case ID No. 53698

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101609048

Media [Statute] Water Quality

Enf. Coordinator Had Darling

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010404002, Effluent Limitations and Monitoring Requirements No. 1 (permit in effect through September 30, 2015) and Interim Effluent Limitations and Monitoring Requirements No. 1 (permit in effect beginning October 1, 2015)

Violation Description

Failed to comply with permitted effluent limits as shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate the values for flow and carbonaceous biochemical oxygen demand (five-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and *Escherichia coli* were also considered. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

334 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Four quarterly events are recommended for the quarters containing the months of February 2015, March 2015, April 2015, May 2015, June 2015, August 2015, September 2015, October 2015, November 2015, and December 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,000

This violation Final Assessed Penalty (adjusted for limits) \$7,000

Economic Benefit Worksheet

Respondent City of Dilley
Case ID No. 53698
Reg. Ent. Reference No. RN101609048
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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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

City of Dilley
TPDES Permit No. WQ0010511001
Docket No. 2017-0051-MWD-E
Case No. 53698

Effluent Violation Table								
Monitoring Period	Permitted Effluent Limits							
	CBOD ₅ Daily Avg. Conc.	CBOD ₅ Daily Avg. Loading	<i>E. coli</i> Daily Avg. Conc.	<i>E. coli</i> Single Grab	<i>E. coli</i> Single Grab	Flow Daily Avg.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	Limit = 30 mg/L	Limit = 75 lbs/day	Limit = 126 CFU/100 mL	Limit = 394 CFU/100 mL	Limit = 399 CFU/100 mL	Limit = 0.3 MGD	Limit = 90 mg/L	Limit = 225 lbs/day
February 2015	c	c	220	436	N/A	c	c	c
March 2015	c	c	563	1119	N/A	0.34	c	c
April 2015	c	c	c	c	N/A	0.368	c	c
May 2015	c	c	157	c	N/A	0.384	c	c
June 2015	c	c	c	c	N/A	0.331	c	c
August 2015	31	c	c	c	N/A	c	104	251
September 2015	31	98	345	410	N/A	0.441	c	c
October 2015	c	87	c	N/A	c	0.492	c	c
November 2015	c	c	179	N/A	c	0.362	c	c
December 2015	c	c	256	N/A	c	0.471	228	228
January 2016	c	85	1210	N/A	2419	0.705	299	299

CBOD₅ = carbonaceous biochemical oxygen demand (five-day)
 CFU/100 mL = colony forming units per 100 milliliters
 MGD = million gallons per day
 mg/L = milligrams per liter
 lbs/day = pounds per day

E. coli = *Escherichia coli*
 TSS = total suspended solids
 c = compliant
 N/A = not applicable
 Conc. = concentration
 Avg. = average



Compliance History Report

Compliance History Report for CN600738298, RN101609048, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator:	CN600738298, City of Dilley	Classification: SATISFACTORY	Rating: 2.14
Regulated Entity:	RN101609048, DILLEY WWTP	Classification: SATISFACTORY	Rating: 3.27
Complexity Points:	9	Repeat Violator:	NO
CH Group:	08 - Sewage Treatment Facilities		
Location:	Approximately one mile southwest of the intersection of Interstate Highway 35 and State Highway 85 in Frio County, Texas		
CEQ Region:	REGION 13 - SAN ANTONIO		
Section Number(s):			
WASTEWATER PERMIT WQ0010404002	WASTEWATER EPA ID TX0117218		
WASTEWATER LICENSING LICENSE WQ0010404002			
Compliance History Period:	September 01, 2011 to August 31, 2016	Rating Year:	2016
		Rating Date:	09/01/2016
Latest Compliance History Report Prepared:	January 12, 2017		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	January 12, 2012 to January 12, 2017		
CEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Herbert Darling	Phone:	(512) 239-2520

Site and Owner/Operator History:

Has the site been in existence and/or operation for the full five year compliance period? YES
 Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

Final Orders, court judgments, and consent decrees:
 N/A

Criminal convictions:
 N/A

Chronic excessive emissions events:
 N/A

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

Item 1	February 03, 2012	(999707)
Item 2	April 11, 2012	(1011829)
Item 3	May 07, 2012	(1018188)
Item 4	June 12, 2012	(1025927)
Item 5	July 16, 2012	(1033284)
Item 6	August 06, 2012	(1039798)
Item 7	September 07, 2012	(1048743)
Item 8	May 14, 2013	(1108494)
Item 9	June 18, 2013	(1112077)
Item 10	August 13, 2013	(1126778)
Item 11	September 30, 2013	(1148910)
Item 12	February 12, 2014	(1154994)
Item 13	June 17, 2014	(1189234)

Item 14	September 10, 2014	07548)
Item 15	August 25, 2015	(1284878)
Item 16	July 21, 2016	(1360835)
Item 17	August 22, 2016	(1367274)

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: 01/31/2016 (1326722)		
	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: 02/29/2016 (1333485)		
	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: 03/31/2016 (1340629)		
	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: 04/30/2016 (1347437)		
	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: 05/31/2016 (1353840)		
	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: 08/31/2016 (1373990)		
	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: 09/30/2016 (1380139)		
	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: 10/31/2016 (1386095)		
	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

Participation in a voluntary pollution reduction program:

N/A

Early compliance:

N/A

tes Outside of Texas:

N/A

