



Control Number: 44820



Item Number: 38

Addendum StartPage: 0

DOCKET NO. 44820

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2016 SEP 15 AM 11:29

APPLICATION OF CITY OF
HACKBERRY FOR A SEWER
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN DENTON
COUNTY

§
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§

PUBLIC UTILITY COMMISSION

PUBLIC UTILITY COMMISSION
FILING CLERK

OF TEXAS

**THE CITY OF HACKBERRY'S RESPONSE TO COMMISSION STAFF'S
FIRST REQUEST FOR INFORMATION**

COMES NOW the City of Hackberry, Texas (the "Applicant") and files this its Response to Commission Staff's First Request for Information, and would show the following responses to the Staff's request for information:

a. The water system has violations listed in the Drinking Water Watch website maintained by the TCEQ for not providing the Public Notice for Total Coliform Rule violations in September 2011 & October 2011. If these public notices were provided or if you have any questions regarding these violations, please contact TCEQ's Water Supply Division to discuss.

Response: Documentation supporting compliance with the Public Notice requirement is attached as Exhibit A to the attached Supporting Affidavit of Brenda Lewallen, the Applicant's City Administrator and City Secretary. The Exhibit A documents were filed with the TCEQ on March 14, 2012, and resubmitted on August 17, 2016.

b. The system has a violation for the wastewater system for "Failure to comply with the permitted effluent limitations", the violation is from August 2011. If you have any questions regarding this violation, please contact TCEQ's Water Quality Division to discuss.

Response: Documentation demonstrating the Applicant's response is attached as Exhibit B to the Supporting Affidavit of Brenda Lewallen, the Applicant's City Administrator and City Secretary. The Applicant is operating under a revised order from the TCEQ that

is currently being reviewed by the section manager and the Executive Director of the TCEQ. The revised order is a part of Exhibit B.

c. The wastewater system received an Agreed Order from TCEQ's Enforcement Division, signed on 4/8/2016. Provide documentation from TCEQ that verifies these violations have been corrected and the system is now in compliance.

Response: Documentation supporting payment of the administrative penalty is attached as Exhibit C to the Supporting Affidavit of Brenda Lewallen, the Applicant's City Administrator and City Secretary. Also attached as a part of Exhibit C is the April 6, 2016, TCEQ Agreed Order which contains Finding of Fact Seven (7) that recites that the Applicant has implemented all required corrective actions.

Respectfully Submitted,

By :



John Rapier
State Bar No. 16550500
Gay, McCall, Isaacks & Roberts, P.C.
777 E. 15th Street
Plano, Texas 75074
Tel (972) 424-8501
Fax (972) 422-9322
jrapier@gmigr.com
Attorney for Applicant,
the City of Hackberry, Texas

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on the following parties of record on September 15, 2016, in accordance with 16 TAC § 22.74.

Via electronic mail - douglas.brown@puc.texas.gov

Douglas M. Brown
Attorney-Legal Division
Public Utilities Commission of Texas
1701.N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326




John Rapier

SUPPORTING AFFIDAVIT OF BRENDA LEWALLEN

BEFORE ME, the undersigned authority, personally appeared Brenda Lewallen, City Administrator for the City of Hackberry, Texas, who upon her oath, deposed and stated the following:

1. "My name is Brenda Lewallen and I am the City Administrator and the City Secretary for the City of Hackberry, Texas (the "City"). I am over the age of eighteen. I have not been convicted of a felony or a misdemeanor involving moral turpitude. I have personal knowledge of the facts set forth below and am authorized to make this affidavit.
2. The facts stated in the foregoing Responses are true and correct.
3. The documents contained in Exhibits A, B and C attached to this Supporting Affidavit are kept by the City in the regular course of business. It was the regular course of business of the City for an employee or representative of the City, with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or transmit information thereof to be included in such record. The record was made at or near the time of the act, event, condition, or diagnosis or reasonably soon thereafter. Each record attached hereto is the original, or an exact duplicate of the original, that it purports to be.


 Brenda Lewallen, City Administrator
 City of Hackberry, Texas

STATE OF TEXAS §
 COUNTY OF COLLIN §

Subscribed before me on September 13, 2016, by Brenda Lewallen.




 Notary Public, State of Texas

Exhibit A
to the
Supporting Affidavit of
Brenda Lewallen



Texas Commission on Environmental Quality

CERTIFICATE OF DELIVERY OF PUBLIC NOTICE TO CUSTOMERS: TIER III

Public Notice to be posted within **90 days** of initial violation notificationPublic Water System (PWS) name: City of Harkberry
PWS ID: 0610091 Month / Year of violation(s): Sept + Oct 2011

Type of Total Coliform Rule or Ground Water Rule violation(s):

- ☐ Distribution Routine Monitoring/Temporary Increased Routine Monitoring violation
☐ Repeat Monitoring violation
☐ Triggered Source Monitoring (raw groundwater source sample) violation
☐ Surface Water Treatment Rule Monitoring or Reporting violation

30 TAC 290.122(c) requires that your PWS make an adequate, good-faith effort to reach all consumers served by the system by appropriate methods (check all below that apply):

COMMUNITY WATER SYSTEM:

- ☐ Mail or directly distribute PN to each customer receiving a bill and to other service connections to which water is delivered by the public water system
Did Not deliver to customers due to complaints from previous notifications
and at least one of the following methods if direct delivery may not reach all persons regularly served by the system:
☒ Publish PN in local newspaper
☐ Deliver multiple PNs for distribution by customers that provide their drinking water to others (e.g. apartment building owners or large private employers)
☐ Post PN in public places
☐ Deliver PN to community organizations
☐ Post PN on the Internet at: www.

NONCOMMUNITY WATER SYSTEM:

- ☐ Mail or directly deliver PN to each customer and service connection, or
☐ Post PN in conspicuous places within the water system
and at least one of the following methods if direct delivery or public posting may not reach all persons regularly served by the system:
☐ Publish PN in local newspaper
☐ Deliver multiple PNs for distribution by customers that provide their drinking water to others (e.g. apartment building owners or large private employers)
☐ Post PN in public places
☐ Deliver PN to community organizations
☐ Post PN on the Internet at: www.

REQUIRED SIGNATURE ON REVERSE SIDE

"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."

Certified by: (print name): Charles Vokes Title: Regional Manager
 Date of Delivery to Customers: Mar 2, 2012 Phone: 682 459 5425
 Signature: [Signature] Date: 3/14/2012

Fax to (512) 239-3666 or mail a copy of this completed form, AND copies of the Public Notices given to your customers to: TCEQ – Public Drinking Water Section MC – 155, Attn: Public Notice. P. O. Box 13087 Austin, TX 78711-3087

BOTH SIDES OF THIS FORM, PLUS THE COMPLETED MANDATORY LANGUAGE, MUST BE DELIVERED TO THE TCEQ FOR PUBLIC NOTICE COMPLIANCE.

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information, visit our website at www.usps.com

AUSTIN, TX 78711 **OFFICIAL USE**

Postage	\$ 00.45	0068
Certified Fee	\$2.95	01
Return Receipt Fee (Endorsement Required)	\$2.35	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 05.75	03/14/2012

Sent To: **TCEQ Public Drinking - Public Notice**
 Street, Apt. No., or PO Box No.: **P.O. Box 13087**
 City, State, ZIP+4: **Austin, TX 78711-3087**

PS Form 3800, August 2005 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to: TCEQ - Public Drinking Water Section MC-155 ATTN: Public Notice P.O. Box 13087 Austin, TX 78711-3087</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7009 2250 0001 4548 5721</p>

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Star Community Newspapers

02/29/12

Serving in Allen, Carrollton, Celina, Coppell, Flower Mound, Frisco, Lewisville, Little Elm, McKinney, Mesquite, Plano, Rowlett, Southlake, and The Colony

www.scntx.com
624 Krona Drive
Suite 170
Plano, TX 75074

Classified (972) 422-SELL
Recruitment: (972) 578-WORK
Legals: 972-398-4233

Name:	ELIZABETH WRENN	Run dates:	03/02/12 to 03/02/12
Company:	CITY OF HACKBERRY	Class:	1710
Address:	119 MAXWELL ROAD B-7	Ad ID:	878732
	FRISCO, TX 75034	Ad Taken:	SLAKE
Account ID:	31444	Sales Person:	922
Account #:	6036938		
Telephone:	(972) 292-3223	Inserts:	2
Fax:	(972) 292-2790	Words:	112
E-mail:	hackberry@prodigy.net	Lines:	17
SIC code:		Columns:	3
		Depth (Inches):	2.0

Packages:

Payments	Method	Card Type	Name on Card	Last 4 Digits	Expire Date	Check Number	Amount Paid
Total:							\$66.00
Paid Amount:							\$0.00
Amount Due:							\$66.00

Routine Monitoring Violation Total Coliform Rule

City of Hackberry/ PWS ID 0610091 failed to collect the required number of bacteriological samples for coliform monitoring of the water distribution system during September & October 2011. This monitoring is required by the Texas Commission on Environmental Quality's "Drinking Water Standards" and the federal "Safe Drinking Water Act," Public Law 95-523.

Bacteriological samples are used to monitor water quality and indicate if the water is free of coliform bacteria. Our water system is required to submit TWO bacteriological samples each month. Failure to collect all required bacteriological samples is a violation of the monitoring requirements and we are required to notify you of this violation.



AFFIDAVIT OF LEGAL NOTICE

I, Della Hampton, Account Representative of the Frisco Enterprise, a newspaper printed in the English language in Collin County, State of Texas, do hereby certify that this notice was Published in The Frisco Enterprise on the following dates, to-wit

March 2, 2012

Collin County

(Description)

100.00

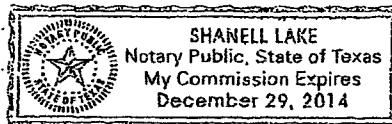
(Cost)

Della Hampton

Account Rep. of The Frisco Enterprise

Subscribed and sworn on this

2nd day of March, 2012



Shanell Lake

Notary Public, State of Texas

NOTICES	NOTICES	NOTICES	NOTICES	PREVIOUS EDITIONS
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Public Notice

Pursuant to Chapter 59, Texas Property code, Centennial Storage Center which is located at 12300 College Parkway, Frisco, TX 75035 will hold a public auction of property to satisfy a landlords lien. Auction will be held on 03/17/2012 at 10:30am. Tenants to be auctioned will be James Hawkins, retail copier, office furniture, leather sofa and office chairs. Jeffery Wendt, bedroom set, computer, gun cabinet, dining room set, washer, dryer. Lester Flores, Tv, jewelry box, refrigerator, ladder, computer, dresser. Kathryn Sherman, filing cabinet, household goods. Felicia Benjamin, Purses, Tv, fan, misc. boxes. Anthony Cater, many hand tools, ladder, dolly, computer. Hattie McGuire, sm hockey table, bedroom set, dining chairs, Lg mirror, coffee table. Jean, Bierwagen, lawn mower, misc. household goods, sewing machine.

LOCAL

NOTICE OF HEARING

Notice is hereby given that the City Council will conduct a Public Hearing to consider the below listed request(s) on **Tuesday, March 20, 2012**, at 6:30 P.M. at the George A. Purefoy Municipal Center Council Chambers at the Frisco City Hall, 6101 Frisco Square Boulevard, Frisco, Texas.

Zoning Case No: Z11-0020

Request: Amend Planned Development-216 to modify the boundaries and amend the zoning exhibit and development standards.

Location: 410.0+ acres on the Southwest corner of US Hwy 380 and Dallas Parkway. Zoned Agricultural & Planned Development-216.

City of Hackberry/ PWS ID 0610091 failed to collect the required number of bacteriological samples for coliform monitoring of the water distribution system during September & October 2011. This monitoring is required by the Texas Commission on Environmental Quality's "Drinking Water Standards" and the federal "Safe Drinking Water Act," Public Law 95-523.

Bacteriological samples are used to monitor water quality and indicate if the water is free of coliform bacteria. Our water system is required to submit TWO bacteriological samples each month. Failure to collect all required bacteriological samples is a violation of the monitoring requirements and we are required to notify you of this violation.

Competitive Sealed Proposal (CSP)
CSP 402-2012-02-17

Competitive Sealed Proposals will be received for HVAC Service and Repair for Frisco ISD. Proposals can be obtained on the Frisco ISD website at <http://www.friscoisd.org/inside/purchasing.htm>, (click on bidding system on left side of page) and will be received until:

March 19, 2012 at 10:00 AM Central

CSP 402-2012-02-17 HVAC Service and Repair

Frisco ISD strongly requests that bidders submit this bid electronically however; vendors may obtain proposal packets by calling 469-633-6386. Frisco ISD reserves the right to waive any informality or to reject any or all proposals. Proposal submissions will not be accepted via email or fax.

Competitive Sealed Proposal (CSP)
CSP 403-2012-02-17

Competitive Sealed Proposals will be received for Fire alarm Service

2007 Chevrolet Silverado 1500 Classic Miles 132,773 Stock #72128935 Silver \$ 10,600 EDorado 1-888-587-2546

2004 Ford F-150 Miles 120,325 Stock # 4CA94791 Gray \$ 8,000 EDorado 1-888-587-2546

2002 Ford Ranger Miles 98,355 Stock # 2PB02163 White \$ 9,000 EDorado 1-888-587-2546

2002 Ford Ranger 98,355 2PB02163 2002 Ford Ranger 98,355 White \$9,000

EDorado 1-888-587-2546

2011 Jeep Patriot Miles 32,479 Stock # BD108222 Silver \$ 17,500 EDorado 1-888-587-2546

2009 Jeep Wrangler Hard Top Miles 65,219 Stock #3P910153 Black \$ 16,000 EDorado 1-888-587-2546

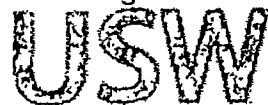
BUY OLD CARS FOR SALVAGE with or without titles. \$50 to \$300. 214-796-1758

Sharon Harper

From: Connie Fluharty <cfluharty@uswatercorp.net>
Sent: Tuesday, August 23, 2016 2:27 PM
To: City
Subject: FW: PWS ID 0610091 - Cert of Delivevery & Newspaper Publication

SEE BELOW

Thank you,
 Connie Fluharty
 DFW Regional Manager/ Texas Compliance Manager



UTILITY GROUP
 Water and Wastewater Utility Operations
 Water and Wastewater Engineering, Construction
 The US Water Services Corporation
 P.O. Box 1210
 Independence, TX 75126

Cell: 1-940-393-5590
 E-mail cfluharty@uswatercorp.net

From: Crystal Watkins [mailto:crystal.watkins@tceq.texas.gov]
Sent: Tuesday, August 23, 2016 2:24 PM
To: Connie Fluharty
Subject: RE: PWS ID 0610091 - Cert of Delivevery & Newspaper Publication

Connie,

I submitted that documentation to the appropriate person on August 17, 2016. It may take them a while to resolve it. I will double check and let you know.

Thanks,

Crystal Watkins
 Texas Commission on Environmental Quality
 Environmental Investigator, Region 4-DFW
 Office: (817) 588-5800
 Direct: (817) 588-5804
 Fax: (817) 588-5701

If you would like to comment on my customer service, you can use the following link:

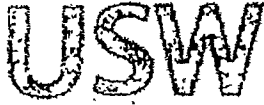
<http://www.tceq.texas.gov/customersurvey>, or you can contact my supervisor directly at: charles.l.marshall@tceq.texas.gov.

From: Connie Fluharty [mailto:cfluharty@uswatercorp.net]
Sent: Tuesday, August 23, 2016 2:18 PM

To: Crystal Watkins <crystal.watkins@tceq.texas.gov>
 Subject: FW: PWS ID 0610091 - Cert of Delivevery & Newspaper Publication

Crystal,
 See below on the City of Hackberry.

Thank you,
 Connie Fluharty
 DFW Regional Manager/ Texas Compliance Manager



Water and Wastewater Utility Operations
 Waterworks Engineering, Inc. and its affiliates

the U.S. Water Services Corporation
 P.O. Box 1016
 Bridgeport, TX 75642

Cell: 1-940-393-5590
 E-mail cfluharty@uswatercorp.net

From: Sharon Harper [<mailto:deputysecretary@cityofhackberry.net>]
Sent: Tuesday, August 23, 2016 8:15 AM
To: Connie Fluharty
Subject: RE: PWS ID 0610091 - Cert of Delivevery & Newspaper Publication

Hi Connie,

Can you find out the status this morning from Crystal? I need to send all info FedEx today.

Thanks,
 Sharon

From: Connie Fluharty [<mailto:cfluharty@uswatercorp.net>]
Sent: Wednesday, August 17, 2016 2:28 PM
To: City
Subject: Fwd: PWS ID 0610091 - Cert of Delivevery & Newspaper Publication

Sharon,
 I will let you know if there is anything else we need. Thanks (see below)

----- Forwarded message -----

From: Crystal Watkins <crystal.watkins@tceq.texas.gov>
Date: Wednesday, August 17, 2016
Subject: PWS ID 0610091 - Cert of Delivevery & Newspaper Publication
To: Connie Fluharty <cfluharty@uswatercorp.net>

I think that should be fine. I will submit it to Central Office and let you know what they say.

Thanks,

Crystal Watkins

Texas Commission on Environmental Quality
Environmental Investigator, Region 4-DFW
Office: (817) 588-5800

Direct: (817) 588-5304

Fax: (817) 588-5701

If you would like to comment on my customer service, you can use the following link:

<http://www.tceq.texas.gov/customersurvey>., or you can contact my supervisor directly at: charles.l.marshall@tceq.texas.gov.

From: Connie Fluharty [mailto:cfluharty@uswatercorp.net]
Sent: Wednesday, August 17, 2016 2:10 PM
To: Crystal Watkins <crystal.watkins@tceq.texas.gov>
Subject: Fwd: PWS ID 0610091 - Cert of Delivevery & Newspaper Publication

Crystal,

please let me know if this will work on the violations.

----- Forwarded message -----

From: Sharon Harper <deputysecretary@cityofhackberry.net>
Date: Wednesday, August 17, 2016
Subject: PWS ID 0610091 - Cert of Delivevery & Newspaper Publication
To: "Connie Fluharty (cfluharty@uswatercorp.net)" <cfluharty@uswatercorp.net>

Connie,

Attached is the Certificate of Delivery and Newspaper Publication for PWS ID 0610091 regarding 'Routine Monitoring Violation Total Coliform Rule' for September and October 2011.

Thank You,

Sharon Harper

Deputy Secretary

City of Hackberry

deputysecretary@cityofhackberry.net

(972) 292-3223 (Office)

(972) 292-2790 (Fax)

Thanks,

Connie Fluharty

--
Thanks,

Connie Fluharty

Exhibit B
to the
Supporting Affidavit of
Brenda Lewallen


IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HACKBERRY
RN102077054

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

AGREED ORDER
DOCKET NO. 2011-2180-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 City of Hackberry ("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 the southern end of Maxwell Road in Hackberry, Denton County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. 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 October 26, 2011 and January 11, 2012.
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 Thirty-Two Thousand Four Hundred Seventy-Five Dollars (\$32,475) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Eighty Dollars (\$780) of the administrative penalty and Six Thousand Four Hundred

City of Hackberry
 DOCKET NO. 2011-2180-MWD-E
 Page 2

Ninety-Five Dollars (\$6,495) 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 Twenty-Five Thousand Two Hundred Dollars (\$25,200) of the administrative penalty shall be payable in 35 monthly payments of Seven Hundred Twenty Dollars (\$720) 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 comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013434001 Interim I Effluent Limitations and Monitoring Requirements No. 1 (permit effective March 28, 2006) and Interim II Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6 (permit effective January 26, 2011), as documented during record reviews conducted on September 27, 2011 and November 9, 2011, and shown in the table below:

X 

EFFLUENT VIOLATION TABLE

	CBOD ₅ Daily Avg. Loading	Chlorine Residual Monthly Min. Conc.	Chlorine Residual Monthly Max. Conc.	NH ₃ - N Daily Avg. Conc.	NH ₃ -N Single Grab	Total P Daily Avg. Conc.	Total P Single Grab	Flow Daily Avg.	pH Min.	TSS Daily Avg. Conc.
Months	Limit = 11 lbs/day	Limit = 1.0 mg/L	Limit = 4.0 mg/L	Limit = 3.0 mg/L	Limit = 15.0 mg/L	Limit = 1.0 mg/L	Limit = 6.0 mg/L	Limit = 0.13 MGD	Limit = 6.0 SU	Limit = 15 mg/L
October 2010	c	c	c	N/A	N/A	N/A	N/A	c	4.8	17
November 2010	c	0.75	c	N/A	N/A	N/A	N/A	c	4.6	c
December 2010	c	c	4.3	N/A	N/A	N/A	N/A	0.14	c	c
January 2011	12.5	c	4.3	N/A	N/A	N/A	N/A	0.16	c	c
February 2011	c	c	c	c	c	3.8	c	c	c	c
March 2011	c	c	c	11.2	37.7	4.1	c	c	c	c
April 2011	c	0.6	c	c	c	3.4	c	c	c	c
May 2011	c	c	c	c	c	3.8	c	c	c	18.2
June 2011	c	0.95	4.9	c	c	4.33	c	c	c	15.3
July 2011	c	c	c	c	c	4.6	6.8	c	c	c
August 2011	c	c	c	c	c	3.5	c	c	c	c
CBOD ₅ = 5-day carbonaceous biochemical oxygen demand NH ₃ -N = ammonia nitrogen P = phosphorus TSS = total suspended solids Avg. = average Min. = Minimum Max. = Maximum						Conc. = Concentration lbs/day = pounds per day mg/L = milligrams per liter MGD = million gallons per day SU = standard units c = compliant N/A = Not Applicable				

2. Failed to submit noncompliance notifications for any effluent violation which deviated from the permitted effluent limitation by more than 40% to the TCEQ Dallas/Fort Worth Regional Office and the Enforcement Division, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0013434001 Monitoring and Reporting Requirements No. 7.c, as documented during a record review conducted on September 27, 2011. Specifically, the total phosphorus daily average concentration exceeded the permitted effluent limit by more than 40% for the months of June, July, August, and September 2011, and the Respondent failed to submit the noncompliance notifications.

3. Failed to collect and analyze samples for required parameters at the minimum frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b), and TPDES Permit No. WQ0013434001 Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on November 9, 2011. Specifically, the Facility did not collect and analyze samples for *Escherichia coli* for the monitoring periods ending February 28, 2011; March 31, 2011; and May 31, 2011.

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 Hackberry, Docket No. 2011-2180-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, update the Facility's operational guidance and conduct employee training to ensure that all reporting, sampling, and analysis requirements are met, in accordance with TPDES Permit No. WQ0013434001 Monitoring and Reporting Requirements Nos. 1 and 7.c;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.d;
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013434001, 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 submitted in accordance with Ordering Provision No. 2.d; and
 - d. The certification of compliance required by Ordering Provision Nos. 2.b and 2.c shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

City of Hackberry
DOCKET NO. 2011-2180-MWD-E
Page 5

"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 fine 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.

City of Hackberry
DOCKET NO. 2011-2180-MWD-E
Page 6

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

City of Hackberry
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 Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 For the Commission

 For the Executive Director

 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

August 20, 2013
 Date

Ronald Austin
 Name (Printed or typed)
 Authorized Representative of
 City of Hackberry

Mayor
 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.

Brenda Lewallen*C.M.# 7014-1820-0002-1109-9928*

From: Jennifer R Graves <jennifer.graves@tceq.texas.gov>
Sent: Friday, July 31, 2015 11:25 AM
To: cityadmin@cityofhackberry.net
Subject: TCEQ Agreed Order Docket No. 2011-2180-MWD-E
Attachments: Revised AO_Signature needed_City of Hackberry.pdf

 **COPY**

Importance: High


Good morning Ms. Lewallen! I hope you have been well!

I have attached previous Agreed Order Docket No. 2011-2180-MWD-E from a very long time ago. This Agreed Order had an assessed penalty of \$32,475; \$6,495 deferred; and a payable \$25,980. A payment plan was requested by the City with an initial payment of \$780 and 35 monthly installments of \$720 each. The initial payment was made (\$1,500 in May of 2013). The attached revised Agreed Order was held back for further review by upper management, language was revised, and a new signature is needed on the Signature Page. Fortunately, the penalty amount did not change. Once we receive the Signature Page, the order will be posted on the Texas Register and then assigned for an Agenda. The Agreed Order will not be effective until after it is approved at Agenda. After it is approved, the Agreed Order will become effective and the penalty payments will begin and the Ordering Provision due dates will start (Page 5 of the attachment).

If you could please have the Mayor sign the Signature Page and scan it back to me that would be great! If you have any questions please don't hesitate to contact me.

Sincerely,

Jennifer Graves
Enforcement Coordinator
Texas Commission on Environmental Quality
Phone: (956) 430-6023
Fax: (956) 412-5059
E-mail: jennifer.graves@tceq.texas.gov

*Need to set up
for payables*


COPY

City Admin

From: Jennifer Graves <Jennifer.Graves@tceq.texas.gov>
Sent: Monday, August 19, 2013 9:27 AM
To: hackberry@prodigy.net
Subject: revised Agreed Order - initials needed

Importance: High

Hello Ms. Lewallen! I have attached the pdf of the revised Agreed Order. I would greatly appreciate it if you could have the Mayor initial next to the Xs I provided and then scan it back to me. The following changes were made to the Agreed Order:

PAGE 1, I. JURISDICTION AND STIPULATIONS, 4., ADD "JANUARY 11, 2012"

PAGE 2, II. ALLEGATIONS, 1., DELETE "AS DOCUMENTED DURING A RECORD REVIEW CONDUCTED ON SEPTEMBER 27, 2011"

PAGE 2, II. ALLEGATIONS, 1., ADD "NOVEMBER 9, 2011" AFTER SEPTEMBER 27, 2011

PAGE 3, II. ALLEGATIONS, EFFLUENT VIOLATION TABLE, REMOVE ALL DATA FOR SEPTEMBER 2011

PAGE 3, II. ALLEGATIONS, 2., CHANGE JUNE, JULY, AND AUGUST TO "JUNE, JULY, AUGUST, AND SEPTEMBER"

PAGE 3, II. ALLEGATIONS, 3., CHANGE RECORD REVIEW CONDUCTED ON SEPTEMBER 27, 2011 TO "NOVEMBER 9, 2011"

Thanks for your help!

Sincerely,

Jennifer Graves
Enforcement Coordinator
Texas Commission on Environmental Quality
Phone: (956) 430-6023
Fax: (956) 412-5059
E-mail: Jennifer.Graves@tceq.texas.gov

*mailed 8-21-13
3:38 PM*

Sharon Harper

From: Melissa Castro <Melissa.Castro@Tceq.Texas.Gov>
Sent: Tuesday, August 23, 2016 3:54 PM
To: Sharon Harper
Subject: RE: Status of Agreed Order Docket No. 2011-2180-MWD-E

Hi Sharon,

I just got a status that the case was submitted to our section manager and executive director. I hope that we can send the revised order to you soon to proceed with the case process. ;

Melissa Castro
Enforcement Coordinator
TCEQ Water Enforcement Section
melissa.castro@tceq.texas.gov
(512) 239-0855

-----Original Message-----

From: Sharon Harper [<mailto:deputysecretary@cityofhackberry.net>]
Sent: Tuesday, August 23, 2016 3:51 PM
To: Melissa Castro
Subject: RE: Status of Agreed Order Docket No. 2011-2180-MWD-E

Hi Melissa,

Do you have any updates on the status of Docket No. 2011-2180-MWD-E?

Thank You,
Sharon Harper
Deputy Secretary
City of Hackberry
deputysecretary@cityofhackberry.net
(972) 292-3223 (Office)
(972) 292-2790 (Fax)

-----Original Message-----

From: Melissa Castro [<mailto:Melissa.Castro@Tceq.Texas.Gov>]
Sent: Tuesday, August 16, 2016 12:27 PM
To: Sharon Harper
Subject: Re: Status of Agreed Order Docket No. 2011-2180-MWD-E

Hi Sharon. The case is currently with our Management Review team correcting some previous errors with the Order. I will have specifics tomorrow and will call you to discuss. Since I was reassigned the case, I am doing my best to get up to speed. Thank you.

Melissa Castro

TCEQ

> On Aug 16, 2016, at 11:34 AM, Sharon Harper <deputysecretary@cityofhackberry.net> wrote:

>

> Hello Melissa,

>

> Do you have an update on this docket number that you can send me? Please call me as soon as possible at 972-292-3223 to discuss?

>

>

>

> Thank You Very Much,

> Sharon Harper

> 972-292-3223

>

> From: Sharon Harper

> Sent: Monday, August 15, 2016 2:43 PM

> To: 'melissa:castro@tceq.texas.gov'

> Subject: Status of Agreed Order Docket No. 2011-2180-MWD-E

>

> Hello Melissa,

>

> Wanted to follow up with the status of the attached 'Agreed Order' Docket No. 2011-2180-MWD-E.

>

>

>

> Thank You,

> Sharon Harper

> Deputy Secretary

> City of Hackberry,

> deputysecretary@cityofhackberry.net<<mailto:deputysecretary@cityofhackberry.net>>

> (972) 292-3223 (Office)

> (972) 292-2790 (Fax)

>

>

>

> <Docket No. 2011-2180-MWD-E.pdf>



Cop

Exhibit C
to the
Supporting Affidavit of
Brenda Lewallen

CITY OF HACKBERRY • WATER/SEWER OPERATING FUND

29

Date: June 11, 2015

To: TCEQ

Reference: City of Hackberry, Docket No. 2015-0099-MWD-E

Amount: \$19,425.00

COPY

COPY

**CITY OF HACKBERRY
WATER/SEWER OPERATING FUND**
119 MAXWELL ROAD B-7
FRISCO, TX 75034
(972) 292-3223

AMERICAN BANK OF TEXAS
8100 PRENTISS RD. • FRISCO, TEXAS 76004-2800
88-164-1119

9680

Nineteen Thousand Four Hundred Twenty-Five and 00/100 June 11, 2015 \$19,425.00

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Cashier's Office, MC 214
TCEQ
PO Box 13088
Austin, Texas 78711-3088



TWO SIGNATURES REQUIRED
[Signature]
[Signature]
AUTHORIZED SIGNATURE

⑈009680⑈ ⑈111901645⑈ 60228234⑈

CITY OF HACKBERRY • WATER/SEWER OPERATING FUND

9680

Date: June 11, 2015

To: TCEQ

Reference: City of Hackberry, Docket No. 2015-0099-MWD-E

Amount: \$19,425.00

7230-600
Settlement Case No. 49944

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
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OFFICIAL USE

Postage	\$
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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Sent To: **CASHIER'S OFFICE, MC214**
TCEQ
 Street, Apt. No., or PO Box No. **P.O. Box 13088**
 City, State, ZIP+4 **AUSTIN, TX 78711-3088**

PS Form 3800, August 2009 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X</p>	
<p>1. Article Addressed to:</p> <p>CASHIER'S OFFICE, MC214 TCEQ P.O. Box 13088 AUSTIN, TX 78711-3088</p>		<p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p style="text-align: right;">JUN 16 2013</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7012 3460 0002 6982 9100</p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>	
<p>PS Form 3811, July 2013 Domestic Return Receipt</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

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



COF

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

April 12, 2016

FIRST CLASS MAIL

The Honorable Ronald Austin, Mayor
City of Hackberry
119 Maxwell Road # B7
Frisco, Texas 75034-9112

RE: City of Hackberry
TCEQ Docket No. 2015-0099-MWD-E; Permit No. WQ0013434001
Agreed Order Assessing Administrative Penalties and Requiring Certain Actions

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Leslie Gann of the Office of the Chief Clerk at (512) 239-3319.

Sincerely,

Bridget C. Bohac

Bridget C. Bohac
Chief Clerk

BCB/lg

Enclosure

cc: Christopher Bost, Enforcement Coordinator, TCEQ Enforcement Division

THE STATE OF TEXAS
COUNTY OF TRAVIS
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

APR 12 2016



OF THE COMMISSION, GIVEN UNDER MY HAND AND THE
SEAL OF OFFICE ON

Bridget C. Bohan
BRIDGET C. BOHAN, CHIEF CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HACKBERRY
RN102077054

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

AGREED ORDER DOCKET NO. 2015-0099-MWD-E

At its **APR 06 2016** agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Hackberry ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 119 Maxwell Road, at the southern end of Maxwell Road in Frisco, Denton County, Texas (the "Facility") with associated collection system manholes located in Hackberry, Denton County, Texas.

City of Hackberry

DOCKET NO. 2015-0099-MWD-E

Page 2

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review conducted on September 29, 2014, TCEQ staff documented that the Respondent did not prevent the unauthorized discharge of wastewater from the collection system into or adjacent to water in the state. Specifically, an unauthorized discharge of approximately 10,000 gallons from the collection system occurred on September 14, 2014. The unauthorized discharge flowed from the manhole located at 5104 Coney Island Drive and pooled in an area of the storm water collection system resulting in a fish kill of approximately 30 fish. Furthermore, six unauthorized discharges from the collection system occurred between September 18, 2014 and November 12, 2014, totaling approximately 11,500 gallons, as shown in the following table:

UNAUTHORIZED DISCHARGE TABLE			
Date	Location	Amount Discharged (gallons)	Description
September 18, 2014	plant lift station	2,000	Pump failure due to an electrical failure which caused the high level alarm to malfunction.
September 21, 2014	5104 Coney Island Drive (manhole)	500	Pump failure due to electrical problems.
September 29, 2014	12120 Sand Castle Drive and 5104 Coney Island Drive (two manholes)	4,000	Breaker failures at the Coney Island Drive lift station.
September 30, 2014	5104 Coney Island Drive (manhole)	2,000	Breaker failure at the Coney Island Drive lift station.
October 26, 2014	12120 Sand Castle Drive and 5104 Coney Island Drive (two manholes)	2,000	Pump failures due to electrical problems at the Coney Island Drive lift station.
November 12, 2014	5104 Coney Island Drive (manhole)	1,000	Pump failure due to electrical problems at the Coney Island Drive lift station.

City of Hackberry
DOCKET NO. 2015-0099-MWD-E
Page 3

4. During a record review conducted on January 21, 2015, TCEQ staff documented that the Respondent did not timely submit a complete discharge monitoring report ("DMR") for the monitoring period ending December 31, 2013. Specifically, the DMR did not include total suspended solids daily average loading and concentration and maximum single grab results.
5. During a record review conducted on January 21, 2015, TCEQ staff documented that the Respondent did not timely submit a complete sludge report for the monitoring period ending July 31, 2014 by September 30, 2014. Specifically, the sewage sludge for production and use ("SLDP") DMR for the 2014 sludge report was lacking polychlorinated biphenyls and toxic characteristic leaching procedure results.
6. The Respondent received notice of the violations on December 2, 2014.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By September 14, 2014, stopped the discharge, collected the debris, disinfected the affected area, and removed and properly disposed of the dead fish.
 - b. By February 3, 2015, submitted a revised DMR for the monitoring period ending December 31, 2013 and submitted a revised annual sludge report for the monitoring period ending July 31, 2014.
 - c. By March 11, 2015, performed corrective actions following additional discharges and upgraded the lift stations to prevent future electrical malfunctions.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013434001, Permit Conditions No. 2.g.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit a complete DMR for the monitoring period ending December 31, 2013, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.1 and TPDES Permit No. WQ0013434001, Monitoring and Reporting Requirements No. 1 (permit effective January 26, 2011).

City of Hackberry
 DOCKET NO. 2015-0099-MWD-E
 Page 4

4. As evidenced by Findings of Fact No. 5, the Respondent failed to timely submit a complete sludge report for the monitoring period ending July 31, 2014 by September 30, 2014, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013434001, Sludge Provisions (permit effective February 28, 2014).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Nineteen Thousand Four Hundred Twenty-Five Dollars (\$19,425) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Nineteen Thousand Four Hundred Twenty-Five Dollar (\$19,425) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Nineteen Thousand Four Hundred Twenty-Five Dollars (\$19,425) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hackberry, Docket No. 2015-0099-MWD-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the submittal of complete

City of Hackberry
 DOCKET NO. 2015-0099-MWD-E
 Page 5

DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0013434001.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions No. 2.a. 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 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

City of Hackberry
 DOCKET NO. 2015-0099-MWD-E
 Page 6

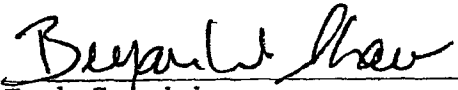
shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. 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.

City of Hackberry
DOCKET NO. 2015-0099-MWD-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY


For the Commission

4-8-16
Date


For the Executive Director

2/18/16
Date

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

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in *criminal* prosecution.


Signature

10-22-15
Date

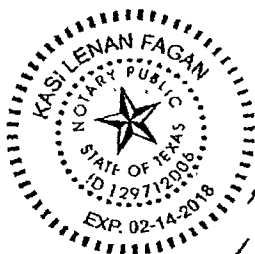
Ronald Austin
Name (Printed or typed)
Authorized Representative of
City of Hackberry

Mayor
Title

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

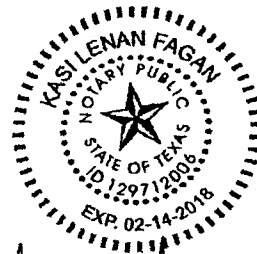
I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate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

Docket No. 2015-0099-MWD-E



Kasilenan Fagan

Gracie A. Fluker
5/6/2016



Kasilenan Fagan
5/6/2016

Sharon Harper

From: Christopher Moreno <Christopher.Moreno@tceq.texas.gov>
Sent: Friday, August 19, 2016 10:49 AM
To: Sharon Harper
Subject: RE: City of Hackberry; Case No. 49944; Docket No. 2015-0099-MWD-E

Good Morning Mrs. Harper,

Sorry for not getting back in contact with you sooner. I was out of the office taking care of my daughter, she was sick. I wanted to let you know that I did close the case and it is under review by my management. Once they review it and it is approved to be closed then I will send out a Notice of Compliance letter. Sorry that it is taking so long, but once I get the approval to completely close the case I will send out the letter. If you have any questions feel free to contact me.

Thanks,

Christopher Moreno
 Compliance Monitoring Section
 Enforcement Division
 Texas Commission on Environmental Quality
Christopher.Moreno@tceq.texas.gov
 Phone: (512) 233-2628
 Fax: 512-239-0036

From: Sharon Harper [<mailto:sharpersecretary@cityofhackberry.net>]
Sent: Thursday, August 18, 2016 8:52 AM
To: Christopher Moreno <Christopher.Moreno@tceq.texas.gov>
Subject: FW: City of Hackberry; Case No. 49944; Docket No. 2015-0099-MWD-E
Importance: High

Good morning Mr. Moreno,

Has the case for Docket No. 2015-0099-MWD-E, Case No. 49944 been closed? If so, can you send me documentation confirming.

Thank You Very Much,
 Sharon Harper
 Deputy Secretary
 City of Hackberry
sharpersecretary@cityofhackberry.net
 (972) 292-3223 (Office)
 (972) 292-2790 (Fax)

From: Christopher Moreno [<mailto:Christopher.Moreno@tceq.texas.gov>]
Sent: Monday, May 09, 2016 8:22 AM
To: Connie Fluharty
Subject: RE: City of Hackberry; Case No. 49944; Docket No. 2015-0099-MWD-E

Good Morning Connie,

Thank you for sending the documentation. It looks like the documents that you sent me should be all that documentation that I need to start the case closure process. Before the case is fully closed my management will review the documentation to make sure it is sufficient to close the case. If they have any questions or request more documentation I will contact you. If you have any questions feel free to contact me.

Thank you,

Christopher Moreno
Compliance Monitoring Section
Enforcement Division
Texas Commission on Environmental Quality
Christopher.Moreno@tceq.texas.gov
Phone: (512) 239-2618
Fax: 512-239-0056

From: Connie Fluharty [<mailto:cfluharty@uswatercorp.net>]
Sent: Friday, May 06, 2016 2:14 PM
To: Christopher Moreno <Christopher.Moreno@tceq.texas.gov>
Cc: cfluharty@uswatercorp.net
Subject: FW: City of Hackberry; Case No. 49944; Docket No. 2015-0099-MWD-E

Christopher,
Please let me know if you need anything else and if this will work for you.

Thank you,
Connie Fluharty
DFW Regional Manager/ Texas Compliance Manager

USW

UTILITY GROUP
Water and Wastewater Utility Operations
Maintenance Engineering, Construction

the U.S. Water Services Corporation
P.O. Box 1216
Bridgeport, Tx 76426

Cell: 1-940-393-5590
E-mail cfluharty@uswatercorp.net

From: Christopher Moreno [<mailto:Christopher.Moreno@tceq.texas.gov>]
Sent: Friday, May 06, 2016 9:21 AM
To: cfluharty@uswatercorp.net
Subject: City of Hackberry; Case No. 49944; Docket No. 2015-0099-MWD-E

Hi Connie,

Per our conversation, I attached the Agreed Order. It looks like Jennifer Graves is in a different Division now. I found the previous emails and documentation in the case file. I got the documentation regarding the lift station, but it looks like I just need a few more documents then I believe I can start the case closure process. According to Ordering Provision 2.a., on page 4 of the Agreed Order, I would need an operational guidance document (SOP) for completing and submitting DMR's and annual sludge reports. The final Ordering Provision 2.b, is just a certification statement indicating that anything that is submitted is true and accurate to your knowledge. I attached the document to this email. It just needs a signature, date and to be notarized. If you have any questions feel free to contact me.

Thanks,

Christopher Moreno
Compliance Monitoring Section
Enforcement Division
Texas Commission on Environmental Quality
CHRISTOPHER.MORENO@TCEQ.TEXES.GOV
Phone: (512)239-2618
Fax: 512-239-0036