EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-0795-MWD-E **TCEQ ID:** RN101212611 **CASE NO.:** 25404

RESPONDENT NAME: City of Electra

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Electra waste water treatment facility, approximately two miles southeast of the intersection of Farm-to-Market Road 1739 and State Highway Loop 477, Electra, Wichita County

TYPE OF OPERATION: Waste water treatment facility

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 2, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Section I, MC 169, (512) 239-1203; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
Respondent: Mr. Stephen Giesbrecht, City Administrator, City of Electra, 101 North Main, Electra, Texas 76360
The Honorable Glenn Branch, Mayor, City of Electra, 101 North Main, Electra, Texas 76360
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** March 1, 2005 **Date of NOE Relating to this Case:** April 18, 2005 (NOE) **Background Facts:** This was a routine record review of self-reported discharge monitoring reports. One violation was documented. **WATER** Failed to meet 5-day biochemical oxygen demand, total suspended solids, and pH effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10020001 [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 10020001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, and TEX. WATER CODE § 26.121(a)].	**Total Assessed:** $8,360 **Total Deferred:** $1,672 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $6,688 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes the City achieved compliance with TPDES Permit No. 10020001 effluent limitations on July 31, 2004. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Attachment A
Docket Number: 2005-0795-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Electra
Docket Number:	2005-0795-MWD-E
Penalty Amount:	Six Thousand Six Hundred Eighty-Eight Dollars [$6,688]
SEP Offset Amount:	Six Thousand Six Hundred Eighty-Eight Dollars [$6,688]
Type of SEP:	Custom
Location of SEP:	Wichita County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall repair or replace broken and/or substandard private service lines within the wastewater collection system for approximately four low to moderate-income homeowners. The project shall upgrade lines to modern construction standards and prevent leakage and/or infiltration due to breaks or cracks. The Respondent will perform this project at no cost to the homeowners. The SEP will be done in accordance with all federal, state and local environmental laws and regulations. The Respondent will use SEP monies only for the direct cost of implementing the project and no portion will be spent on administrative costs. Subject to previously agreed upon restrictions on the use of SEP monies and to the extent it can be documented, the Respondent will receive credit for the hours its employees and equipment are used implementing the SEP. Equipment credits will be based on the schedule of equipment rates published by the Federal Emergency Management Agency. The Respondent will neither receive credit for volunteer labor or equipment nor for gratuities and/or inducements for volunteers.

The Respondent certifies that there is no prior commitment to do this project, that it has no obligation to perform the project, and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the amount of stormwater and groundwater infiltration into the sanitary sewer system, reducing the potential for health threats and pollution caused by overflows of raw sewage into the environment. This project will also assist low income homeowners to reduce the potential for backup of sewage into homes during periods of heavy rainfall or flooding.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall commence the project and shall complete the project within 180 days after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a progress report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred, with receipts, copies of checks, or other verifying documentation attached, including timesheets signed by a supervisor for any labor performed by the Respondent for which the Respondent is requesting SEP credit;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of homes for which lines were repaired or replaced;
5. Map showing specific location of lines repaired or replaced;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

With the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision March 02, 2005*

DATES					
Assigned	25-Apr-2005				
PCW	04-May-2005	Screening	29-Apr-2005	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Electra		
Reg. Ent. Ref. No.	RN101212611		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	25404	No. of Violations	1
Docket No.	2005-0795-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Brent Hurta
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) $4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 149% Enhancement $5,960

Notes: The respondent has twenty-nine months of self-reported effluent violations and two commission issued NOVs without same or similar violations.

Culpability No 0% Enhancement $0

Notes: The Respondent does not meet the culpability criterion.

Good Faith Effort to Comply 25% Reduction -$1,000

	NOV to EDPRP/Settlement Offer	
Extraordinary		
Ordinary	X	
N/A		*(mark with a small x)*

Notes: Respondent achieved compliance with its permitted effluent limits on July 31, 2004.

Economic Benefit Enhancement* $0

$292	
$5,000	

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 $8,960

OTHER FACTORS AS JUSTICE MAY REQUIRE 6.70% Reduction -$600

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes: Recommend reduction in penalty so that monthly self-reported violations do not overly impact the penalty amount.

$8,360

STATUTORY LIMIT ADJUSTMENT $8,360

DEFERRAL 20% -$1,672

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $6,688

Screening Date	29-Apr-20	**peat Violator (Subtotal 3)**	2005-0795-MWD-E
rox. Cost of Compliance	City of Electra		
Case ID No.	25404		
Reg. Ent. Reference No.	RN101212611		
Media [Statute]	Water Quality		
Screening Date	Brent Hurta		

X

Policy Revision 2 (September 2002)

PCW Revision March 02, 2005

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	29	145%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	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 *(number of judgements or consent decrees meeting criteria)*	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 *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **149%**

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) **0%**

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

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> Compliance History Summary

Compliance History Notes The respondent has twenty-nine months of self-reported effluent violations and two commission issued NOVs without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **149%**

Screening Date 29-Apr-20 **peat Violator (Subtotal 3)** 2005-0795-MWD-E X

rox. Cost of Compliance City of Electra

Policy Revision 2 (September 2002)

Case ID No. 25404

PCW Revision March 02, 2005

Reg. Ent. Reference No. RN101212611

Media [Statute] Water Quality

Screening Date Brent Hurta

Violation Number 1

Primary Rule Cite(s) 30 TAC § 305.125(1), TPDES Permit No. 10020001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, and TWC § 26.121(a)

Secondary Rule Cite(s)

Violation Description Failure to comply with the permitted effluent limits as shown in the attached violation table, as documented during a record review conducted on March 1, 2005.

Base Penalty $10,000

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

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: A simplified model was utilized to evaluate the values for five day biochemical oxygen demand ("BOD_5") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") and pH 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 -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 4

mark only one
use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $4,000

Four quarterly events are recommended for the non-compliances from September until June 2004.

Economic Benefit (EB) for this violation

Estimated EB Amount $292

Statutory Limit Test

Violation Final Penalty Total $8,360

This violation Final Assessed Penalty (adjusted for limits) $8,360

Economic Benefit Worksheet

Approx. Cost of Compliance City of Electra
Case ID No. 25404
Reg. Ent. Reference No. RN101212611
te Enhancement (Subtotal 2) TPDES Permit No. 10020001
Media [Statute] Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$5,000	30-Sep-2003	31-Jul-2004	0.8	$14	$279	$292
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The date required is the date the noncompliances started and the final date is the July 31, 2004 date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	NOVs						

Approx. Cost of Compliance $5,000

TOTAL $292

Effluent Limit Violation Table

table rev. 12/11/2000

Respond City of Electra
ID Num TPDES Permit No. 10020001
Docket 2005-0795-MWD-E
Enf. Co Brent Hurta

Corresponds to Violation Number: 1

EFFLUENT PARAMETER
Permit Limit

Month/Year	BODs Daily Average	TSS Daily Average	pH									
	30 mg/L limit	90 mg/L limit	9 maximum									
September 2003	c	c	9.2									
October 2003	c	125.5	9.1									
November 2003	42.13	97	c									
December 2003	33.1025	c	c									
February 2004	34.6075	c	c									
March 2004	42.3725	c	c									
April 2004	45.38	c	c									
June 2004	c	c	9.1									

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD5
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH3-N
dissolved oxygen	DO
compliant (no excursions)	c

Compliance History

Customer/Respondent/Owner-Operator:	CN600655534	City of Electra	Classification: AVERAGE	Rating: 2.430
Regulated Entity:	RN101212611	CITY OF ELECTRA	Classification: AVERAGE	Site Rating: 2.05
ID Number(s):	WASTEWATER	PERMIT		TPDES0026964
	WASTEWATER	PERMIT		WQ0010020001
	WASTEWATER LICENSING	LICENSE		WQ0010020001
Location:	2 miles southeast of the intersection of Farm-to-Market Road 1739 and State Highway 477 in Electra, Wichita County, Texas		Rating Date: 9/1/04 Repeat Violator: NO	
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	May 19, 2005			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 19, 2000 to May 19, 2005			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Brent Hurta Phone: 512-239-6589

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1 11/15/2001 (174838)
2 11/12/2002 (174839)
3 12/17/2001 (174840)
4 01/14/2002 (174841)
5 01/16/2003 (174842)
6 10/11/2004 (383419)
7 11/15/2004 (383420)
8 12/13/2004 (383421)
9 01/14/2005 (383422)
10 04/30/2001 (39090)
11 02/17/2004 (302455)
12 03/12/2004 (302456)
13 04/10/2003 (302457)
14 05/13/2003 (37879)
15 04/15/2004 (302458)
16 05/19/2003 (302459)
17 08/27/2004 (292613)

18 06/10/2003 (302460)
19 04/09/2003 (31921)
20 07/17/2003 (302461)
21 08/11/2003 (302462)
22 09/11/2003 (302463)
23 10/17/2003 (302464)
24 04/21/2005 (372569)
25 11/14/2003 (302465)
26 12/13/2002 (302466)
27 12/12/2003 (302467)
28 01/12/2004 (302468)
29 02/14/2002 (174824)
30 02/12/2003 (174825)
31 03/18/2002 (174826)
32 03/14/2003 (174827)
33 04/17/2002 (174828)
34 05/20/2002 (174829)
35 08/20/2002 (8638)
36 06/17/2002 (174830)
37 05/12/2004 (354914)
38 07/15/2002 (174831)
39 06/10/2004 (354915)
40 10/06/2004 (336783)
41 07/16/2004 (354916)
42 08/29/2001 (174832)
43 08/20/2004 (354917)
44 09/13/2004 (354918)
45 08/16/2002 (174833)
46 09/21/2001 (174834)
47 09/16/2002 (174835)
48 10/11/2001 (174836)
49 10/14/2002 (174837)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/30/2002 (174837)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2001 (174838)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2002 (174839)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2001 (174840)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2001 (174841)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2001 (39090)
Classification: Moderate
Self Report? NO
Rqmt Prov: OP IA
Description: FAILURE TO COMPLY
Date: 02/29/2004 (302456)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2003 (302457)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2004 (302458)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2003 (302459)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2003 (302462)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 08/31/2003 (302463)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2003 (302464)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 10/31/2003 (302465)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2002 (302466)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2003 (302467)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 12/31/2003 (302468)
Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2002 (174824)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2002 (174826)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2003 (174827)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2002 (174828)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2002 (174829)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2002 (174830)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2004 (354914)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2002 (174831)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2004 (354916)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2001 (174832)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/26/2004 (292613)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)(A)
Description: FAILURE TO PROVIDE 85% CAPACITY REPORT FOR GROUND AND CLEARWELL STORAGE FACILITIES.

Date: 08/31/2001 (174834)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2002 (174835)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2001 (174836)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

Description:

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF ELECTRA	§	
RN101212611	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2005-0795-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ 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 Electra ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City, appear before the Commission and together stipulate that:

1. The City owns and operates a waste water treatment facility located approximately two miles southeast of the intersection of Farm-to-Market Road 1739 and State Highway Loop 477, Electra, Wichita County, Texas (the "Facility").

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.

4. The City received notice of the violations alleged in Section II ("Allegations") on or about April 23, 2005.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand Three Hundred Sixty Dollars ($8,360) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Six Hundred Seventy-Two Dollars ($1,672) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Six Thousand Six Hundred Eighty-Eight Dollars

($6,688) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

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 of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes the City achieved compliance with Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10020001 effluent limitations on July 31, 2004.

10. 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 City has not complied with one or more of the terms or conditions in this Agreed Order.

11. 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.

12. 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 City is alleged to have failed to meet 5-day biochemical oxygen demand (BOD_5), total suspended solids (TSS), and pH effluent limitations of TPDES Permit No. 10020001, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 10020001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 1, 2005 and shown in the following table:

	EFFLUENT PARAMETER *Permit Limit*		
	BOD5 Daily Average	TSS Daily Average	pH
Month/Year	30 mg/L limit	90 mg/L limit	9 maximum
September 2003	c	c	9.2
October 2003	c	125.5	9.1
November 2003	42.13	97	c
December 2003	33.1025	c	c
February 2004	34.6075	c	c
March 2004	42.3725	c	c
April 2004	45.38	c	c
June 2004	c	c	9.1

Term	Abbreviation
milligrams per liter	mg/L
compliant	c
total suspended solids	TSS
biochemical oxygen demand	BOD_5

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty and the City'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 Electra, Docket No. 2005-0795-MWD-E" to:

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

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Six Hundred Eighty-Eight Dollars ($6,688) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City 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 City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City 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 City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 5/24/07
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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

_____ 1/23/2007
Signature Date

Stephen Giesbrecht City Administrator
Name (Printed or typed) Title
Authorized Representative of
City of Electra

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

Attachment A
Docket Number: 2005-0795-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Electra
Docket Number:	2005-0795-MWD-E
Penalty Amount:	Six Thousand Six Hundred Eighty-Eight Dollars [$6,688]
SEP Offset Amount:	Six Thousand Six Hundred Eighty-Eight Dollars [$6,688]
Type of SEP:	Custom
Location of SEP:	Wichita County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall repair or replace broken and/or substandard private service lines within the wastewater collection system for approximately four low to moderate-income homeowners. The project shall upgrade lines to modern construction standards and prevent leakage and/or infiltration due to breaks or cracks. The Respondent will perform this project at no cost to the homeowners. The SEP will be done in accordance with all federal, state and local environmental laws and regulations. The Respondent will use SEP monies only for the direct cost of implementing the project and no portion will be spent on administrative costs. Subject to previously agreed upon restrictions on the use of SEP monies and to the extent it can be documented, the Respondent will receive credit for the hours its employees and equipment are used implementing the SEP. Equipment credits will be based on the schedule of equipment rates published by the Federal Emergency Management Agency. The Respondent will neither receive credit for volunteer labor or equipment nor for gratuities and/or inducements for volunteers.

The Respondent certifies that there is no prior commitment to do this project, that it has no obligation to perform the project, and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the amount of stormwater and groundwater infiltration into the sanitary sewer system, reducing the potential for health threats and pollution caused by overflows of raw sewage into the environment. This project will also assist low income homeowners to reduce the potential for backup of sewage into homes during periods of heavy rainfall or flooding.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall commence the project and shall complete the project within 180 days after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a progress report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred, with receipts, copies of checks, or other verifying documentation attached, including timesheets signed by a supervisor for any labor performed by the Respondent for which the Respondent is requesting SEP credit;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of homes for which lines were repaired or replaced;
5. Map showing specific location of lines repaired or replaced;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

With the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.