

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1594-MWD-E **TCEQ ID:** RN101920072 **CASE NO.:** 34726

**RESPONDENT NAME:** City of Pottsboro

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Pottsboro Wastewater Treatment Facility, located on County Line Road at Little Mineral Creek, approximately 1.6 miles north of the intersection of Farm-to-Market Road 120 and Farm-to-Market Road 996, Grayson County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 26, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223  <b>TCEQ Enforcement Coordinator:</b> Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> The Honorable Frank Budra, Mayor, City of Pottsboro, P.O. Box 1089, Pottsboro, Texas 75076-1089  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 6, 2007 and September 11, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 23 and October 3, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and record review.</p> <p><b>WATER</b></p> <p>1) Failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010591001, Operational Requirements No. 1].</p> <p>2) Failed to prevent the discharge and accumulation of sludge in the receiving stream [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4), and TPDES Permit No. WQ0010591001, Permit Conditions No. 2.d. and Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 4].</p> <p>3) Failed to comply with the permitted effluent limitations for dissolved oxygen, total suspended solids, ammonia nitrogen, flow, total chlorine residual, and carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010591001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].</p> <p>4) Failed to timely submit monitoring results at the intervals specified in the</p>	<p><b>Total Assessed:</b> \$194,725</p> <p><b>Total Deferred:</b> \$73,828  <input type="checkbox"/> Expedited Settlement  <input checked="" type="checkbox"/> Financial Inability to Pay (\$73,828)</p> <p><b>SEP Conditional Offset:</b> \$120,897</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective actions at the Facility:</p> <p>a. On or before March 26, 2007, removed and properly disposed of the accumulated solids from the receiving stream;</p> <p>b. On or before March 31, 2007, rented a belt press and removed and properly disposed of approximately 200,000 gallons of liquid sludge from the Facility;</p> <p>c. By March 31, 2007, completely rehabilitated the sludge drying beds to ensure timely and continuous sludge removal from the Facility;</p> <p>d. By June 30, 2007:</p> <p>i. Installed nine new aerators in the oxidation channels;</p> <p>ii. Installed additional heaters to the aerators to prevent the interruption of service due to breakers tripping;</p> <p>iii. Initiated a maintenance schedule to ensure that the aerators are properly cleaned on a regular basis; and</p> <p>e. On September 17, 2007, contracted with the Greater Texoma Utility Authority to provide certified operators to ensure that the Facility is properly maintained and that all reporting requirements, including procedures to ensure that the annual sludge reports and written reports for effluent violations which deviate by more than 40% from the permit limit, are properly submitted to the TCEQ.</p> <p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) Within 180 days after the effective</p>

<p>permit [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010591001, Sludge Provisions].</p> <p>5) Failed to report in writing to the TCEQ any effluent violation which deviates from the permitted effluent limitations by more than 40% [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010591001, Monitoring and Reporting Requirements No. 7.c].</p>		<p>date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010591001, 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 include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>
---	--	--

Additional ID No(s): WQ0010591001



**Attachment A**  
**Docket Numbers: 2007-1594-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Pottsboro
<b>Penalty Amount:</b>	One Hundred Twenty Thousand Eight Hundred Ninety-Seven Dollars (\$120,897)
<b>SEP Offset Amount:</b>	One Hundred Twenty Thousand Eight Hundred Ninety-Seven Dollars (\$120,897)
<b>Type of SEP:</b>	Erosion Control Project (Pre-Approved Concept)
<b>Location of SEP:</b>	Grayson 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 conduct erosion control and creek cleanup projects in two creeks that discharge to Lake Texoma in Grayson County. The Respondent shall conduct the work on portions of the two creeks located at the 200 block of East FM 120 and the 500 block of East FM 120. The project will involve using contract labor to install gabion baskets and perform creek cleanup activities. Prior to commencing work, the Respondent shall submit a scope of work to the SEP Coordinator for approval. The scope of work must include a minimum number of gabion baskets that will be installed as well as the exact portions of the creek that are being addressed. All portions of the project will be performed in accordance with federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this 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 erosion, pooling of stagnant water, and downstream sedimentation. The gabion baskets are expected to encourage growth of vegetation and grasses along the stream banks, which will assist in holding the soil in place without significantly impeding the flow of the water but will intercept sediment-laden runoff. Continued erosion leads to high sediment loads in waterways, silting, and disruption of ecosystems. Elimination of stagnant pools of water is expected to minimize breeding areas for mosquitoes that may harbor diseases such as West Nile Virus.



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. The Respondent understands that it may spend more than the required SEP Amount to perform this project. The Respondent agrees not to seek reimbursement from any source for any portion of this project used for the SEP Offset Amount.

**2. Performance Schedule**

The Respondent shall complete the project within one year 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 report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. The Respondent shall submit subsequent progress reports in 90-day intervals thereafter until completion of the project.

B. Final Report

Within 45 days after completion of the project, the Respondent shall submit a final report to the TCEQ which shall include, at a minimum:

1. An itemized list of expenditures and total of costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. Manifests showing proper transport and disposal or recycling of materials;
3. The quantity of materials collected such as number of tires, gallons of paint, etc;
4. Before and after photographs of the project;
5. A map identifying the location of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify completion of the project;
6. A statement of quantifiable environmental benefits; and
7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information or payments 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 Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to “Texas Commission on Environmental Quality” and mail it to:

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

**6. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state 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 a 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)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

<b>DATES</b>	<b>Assigned</b>	2-Oct-2007	<b>Screening</b>	2-Oct-2007	<b>EPA Due</b>	
	<b>PCW</b>	8-Jan-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Pottsboro		
<b>Reg. Ent. Ref. No.</b>	RN101920072		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34726	<b>No. of Violations</b>	6
<b>Docket No.</b>	2007-1594-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Lynley Doyen
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$70,700

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

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

**Compliance History** **Subtotals 2, 3, & 7** \$148,470

**Notes** The penalty is enhanced due to 40 self-reported monthly effluent violations and two NOV's with violations same or similar to those cited in this action.

**Culpability** **Subtotal 4** \$0

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **Subtotal 5** \$0

	Before NOV	NOV to EDRP/Settlement Offer
<b>Extraordinary</b>		
<b>Ordinary</b>		
<b>N/A</b>	X	(mark with x)

**Notes** The Respondent does not meet the good faith criteria.

**0% Enhancement\*** **Subtotal 6** \$0

Total EB Amounts \$5,279  
 Approx. Cost of Compliance \$73,691  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$219,170

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** -\$24,445

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommend reduction so that self-reported effluent violations will not overly-impact the penalty amount, minus an enhancement to capture avoided costs associated with the violations.

**Final Penalty Amount** \$194,725

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$194,725

**DEFERRAL** **Adjustment** \$0

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

**Notes** No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** \$194,725

**Screening Date** 2-Oct-2007

**Docket No.** 2007-1594-MWD-E

**PCW**

**Respondent** City of Pottsboro

Policy Revision 2 (September 2002)

**Case ID No.** 34726

PCW Revision September 19, 2007

**Reg. Ent. Reference No.** RN101920072

**Media [Statute]** Water Quality

**Enf. Coordinator** Lynley Doyen

### 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 ( <i>number of NOVs meeting criteria</i> )	42	210%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 210%

>> **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 penalty is enhanced due to 40 self-reported monthly effluent violations and two NOVs with violations same or similar to those cited in this action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 210%

<b>Screening Date</b> 2-Oct-2007	<b>Docket No.</b> 2007-1594-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Pottsboro		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34726		<small>PCW Revision September 19, 2007</small>
<b>Reg. Ent. Reference No.</b> RN101920072		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lynley Doyen		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010591001, Operational Requirements No. 1	
<b>Violation Description</b>	Failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained. Specifically, the investigator observed that the aerators in several oxidation channels were not in operation and replacement aerators were not available for installation and that the water in all treatment units was black in color and contained excessive solids and foam.	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="25%"/>

>> Programmatic Matrix

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>

**Matrix Notes**  
 Failure to maintain proper solid concentrations in the treatment units could expose human health or the environment to pollutants which may exceed levels protective of human health or environmental receptors.

**Adjustment**

Violation Events

Number of Violation Events        Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

Four monthly events are recommended from the investigation date (March 6, 2007) to the date of compliance (June 30, 2007).

Economic Benefit (EB) for this violation      Statutory Limit Test

Estimated EB Amount       Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Pottsboro  
**Case ID No.** 34726  
**Reg. Ent. Reference No.** RN101920072  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$40,441	6-Mar-2007	30-Jun-2007	0.3	\$43	\$857	\$900
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	6-Mar-2007	30-Jun-2007	0.3	\$5	\$106	\$111
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

Amount the City spent to repair or replace failing aerators and estimated cost to increase operational maintenance to ensure that proper solid concentrations are maintained in all treatment units. Date required is the investigation date. Final date is the 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

Approx. Cost of Compliance

\$45,441

TOTAL

\$1,011

<b>Screening Date</b> 2-Oct-2007	<b>Docket No.</b> 2007-1594-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Pottsboro		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34726		<small>PCW Revision September 19, 2007</small>
<b>Reg. Ent. Reference No.</b> RN101920072		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lynley Doyen		
<b>Violation Number</b> <input type="text" value="2"/>		
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(4), and TPDES Permit No. WQ0010591001, Permit Conditions No. 2.d. and Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 4	
<b>Violation Description</b>	Failed to prevent the discharge and accumulation of sludge in the receiving stream. Specifically, the investigator documented that the water in the stream from the outfall to approximately 200 yards downstream was blackish-gray in color and there were excessive sludge deposits in the shallow areas of the stream. Effluent samples collected by the investigator during discharge from the outfall revealed excessively high concentrations of ammonia-nitrogen (29.7 milligrams per liter ("mg/L")), carbonaceous biochemical oxygen demand (802 mg/L), and total suspended solids (5,340 mg/L).	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	x		<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment was exposed to significant amounts of pollutants which did not exceed protective levels.				

**Adjustment**

Violation Events

Number of Violation Events        Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	x
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

**Violation Base Penalty**

One monthly event is recommended from the investigation date (March 6, 2007) to the date of compliance (March 26, 2007).

Economic Benefit (EB) for this violation      Statutory Limit Test

**Estimated EB Amount**       **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Pottsboro  
**Case ID No.** 34726  
**Reg. Ent. Reference No.** RN101920072  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
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	\$2,500	6-Mar-2007	26-Mar-2007	0.1	\$7	n/a	\$7
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the sludge in the receiving stream. Date required is the investigation date. Final date is the 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

<b>Approx. Cost of Compliance</b>	\$2,500	<b>TOTAL</b>	\$7
-----------------------------------	---------	--------------	-----

<b>Screening Date</b> 2-Oct-2007	<b>Docket No.</b> 2007-1594-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Pottsboro		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 34726		<i>PCW Revision September 19, 2007</i>
<b>Reg. Ent. Reference No.</b> RN101920072		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lynley Doyen		
<b>Violation Number</b> <input type="text" value="3"/>		
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010591001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6	
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations, as described in the attached table.	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<b>Actual</b>	<input checked="" type="checkbox"/>			<b>Percent</b> <input type="text" value="50%"/>
<b>Potential</b>					

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
					<b>Percent</b> <input type="text" value="0%"/>

**Matrix Notes**  
 A simplified model was used to evaluate ammonia-nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Flow, total suspended solids, dissolved oxygen, and total chlorine residual were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels protective of human health or environmental receptors.

**Adjustment**

**Violation Events**

**Number of Violation Events**  **Number of violation days**

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

**Violation Base Penalty**

Nine monthly events are recommended for the months of October 2006 through June 2007.

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Pottsboro  
**Case ID No.** 34726  
**Reg. Ent. Reference No.** RN101920072  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$25,000	1-Jul-2006	30-Sep-2008	2.3	\$188	\$3,753	\$3,941
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 to install new headworks and replace other failing equipment to restore proper operation at the Facility. Date required is the date of the first noncompliance. Final date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.0	\$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

Approx. Cost of Compliance

\$25,000

TOTAL

\$3,941

<b>Screening Date</b> 2-Oct-2007	<b>Docket No.</b> 2007-1594-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Pottsboro		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34726		<small>PCW Revision September 19, 2007</small>
<b>Reg. Ent. Reference No.</b> RN101920072		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lynley Doyen		
<b>Violation Number</b>	4	
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010591001, Interim Effluent Limitations and Monitoring Requirements No. 1	
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations, as described in the attached table.	
	<b>Base Penalty</b>	\$10,000

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>Potential</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

**>> Programmatic Matrix**

	Major	Moderate	Minor	
<b>Falsification</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>

**Matrix Notes**  
 A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.

**Adjustment**

**Violation Events**

Number of Violation Events        Number of violation days

<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

**Violation Base Penalty**

One quarterly event is recommended for the months of July 2006 through September 2006.

**Economic Benefit (EB) for this violation      Statutory Limit Test**

**Estimated EB Amount**       **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Pottsboro  
**Case ID No.** 34726  
**Reg. Ent. Reference No.** RN101920072  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
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

See Economic Benefit Worksheet for Violation No. 3.

### 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

Approx. Cost of Compliance \$0

TOTAL \$0

<b>Screening Date</b> 2-Oct-2007	<b>Docket No.</b> 2007-1594-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Pottsboro		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34726		<small>PCW Revision September 19, 2007</small>
<b>Reg. Ent. Reference No.</b> RN101920072		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lynley Doyen		
<b>Violation Number</b> <input type="text" value="5"/>		
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010591001, Sludge Provisions"/>	
<b>Violation Description</b>	<input type="text" value="Failed to timely submit the annual sludge reports for monitoring periods ending July 31, 2005 and July 31, 2006."/>	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	

>> Programmatic Matrix

	<b>Falsification</b>				
		Major	Moderate		Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>		x
				<b>Percent</b> <input type="text" value="1%"/>	
<b>Matrix Notes</b>	<input type="text" value="At least 70% of the permit requirement was met."/>				

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	x	

**Violation Base Penalty**

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Pottsboro  
**Case ID No.** 34726  
**Reg. Ent. Reference No.** RN101920072  
**Media** Water Quality  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	1-Sep-2005	26-Nov-2007	2.2	\$1	\$30	\$31
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 to prepare and submit the annual sludge reports. Date required is the date the first report was due. Final date is the date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

Approx. Cost of Compliance

\$200

TOTAL

\$31

<b>Screening Date</b> 2-Oct-2007	<b>Docket No.</b> 2007-1594-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Pottsboro		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34726		<small>PCW Revision September 19, 2007</small>
<b>Reg. Ent. Reference No.</b> RN101920072		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lynley Doyen		
<b>Violation Number</b> <input type="text" value="6"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010591001, Monitoring and Reporting Requirements No. 7.c.	
<b>Violation Description</b>	Failed to report in writing to the TCEQ any effluent violation which deviates from the permitted effluent limitation by more than 40%. Specifically, 40% exceedence reports were not submitted for the months of July 2006 through June 2007.	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
					<b>Percent</b> <input type="text" value="10%"/>

Matrix Notes 100% of the permit requirement was not met.

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	x	

**Violation Base Penalty**

Twelve single events (one event per report) is recommended.

Economic Benefit (EB) for this violation Statutory Limit Test

<b>Estimated EB Amount</b> <input type="text" value="\$288"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$33,051"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$33,051"/>	

## Economic Benefit Worksheet

**Respondent** City of Pottsboro  
**Case ID No.** 34726  
**Reg. Ent. Reference No.** RN101920072  
**Media** Water Quality  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
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	\$250	11-Sep-2007	17-Sep-2007	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 to update operational guidance and conduct employee training to ensure that all required reports are submitted to the TCEQ. Date required is the record review date. Final date is the 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	\$300	20-Aug-2006	20-Jul-2007	0.9	\$14	\$275	\$288
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

Avoided cost for failing to prepare and submit 40% exceedence reports, estimated at \$25 per report.

Approx. Cost of Compliance

\$550

**TOTAL**

\$288

## EFFLUENT VIOLATION TABLE

City of Pottsville  
 TPDES Permit No. WQ0010591001  
 Docket No. 2007-1594-MWD-E

Permitted Effluent Limits	Monitoring Period End Date											
	7/31/06	8/31/06	9/30/06	10/31/06	11/30/06	12/31/06	1/31/07	2/28/07	3/31/07	4/30/07	5/31/07	6/30/07
DO monthly min. 4.0 mg/L	c	c	c	c	c	c	c	c	1.8	c	c	1.25
TSS daily avg. loading 44 lbs/day	c	c	c	c	83.3	c	c	c	c	70.8	c	c
TSS daily avg. conc. 15 mg/L	c	c	c	c	23.2	43.4	17.25	18.2	29.2	c	15.61	18.3
TSS max. single grab 60 mg/L	c	c	c	c	c	69	c	c	95	c	c	c
NH <sub>3</sub> -N daily avg. loading 8.8 lbs/day	c	22.2	16.5	34.6	64.2	50	64.2	61.3	33.9	8.93	23.8	10.84
NH <sub>3</sub> -N daily avg. conc. 3 mg/L	5.3	13.2	10.0	14.8	27.7	40.9	25.35	27.2	22.7	5.41	10.21	7.12
NH <sub>3</sub> -N max. single grab 15 mg/L	c	20.9	17.0	31.5	36	88	31.8	29.7	66.4	c	15.1	15.2
Flow daily avg. 0.35 MGD	c	c	c	c	c	0.4	c	c	c	0.75	0.648	0.669
TCR monthly max. 4.0 mg/L	c	c	c	c	5.0	5.0	4.2	c	4.5	4.2	c	c
CBOD <sub>5</sub> daily avg. loading 29 lbs/day	c	c	c	c	53.4	56	c	55.3	c	35.2	c	c
CBOD <sub>5</sub> daily avg. conc. 10 mg/L	c	c	c	c	18.2	47.4	11.6	26.75	13.72	c	c	c
CBOD <sub>5</sub> max. single grab 35 mg/L	c	c	c	c	c	117	c	56	44	38	c	41

avg. = average

c = compliant

CBOD<sub>5</sub> = carbonaceous biochemical oxygen demand

conc. = concentration

DO = dissolved oxygen

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per liter

MGD = million gallons per day

min. = minimum

NH<sub>3</sub>-N = ammonia nitrogen

TCR = total chlorine residual

TSS = total suspended solids



## Compliance History

Customer/Respondent/Owner-Operator:	CN600662860	City of Pottsboro	Classification: AVERAGE	Rating: 2.54
Regulated Entity:	RN101920072	CITY OF POTTSBORO	Classification: AVERAGE	Site Rating: 2.08
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER WASTEWATER LICENSING		PERMIT PERMIT PERMIT LICENSE	WQ0010591001 TPDES0068756 TX0068756 WQ0010591001
Location:	LOCATED ON COUNTY LINE RD AT LITTLE MINERAL CREEK, APPRX 1.6 M N OF THE INTX OF FM 120 & FM 996, GRAYSON CO, TX			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	October 01, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 01, 2002 to October 01, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Lynley Doyen	Phone: 512-239-1364			

### 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 11/14/2002 (195177)
  - 2 11/14/2002 (195180)
  - 3 11/14/2002 (195183)
  - 4 01/16/2003 (195187)
  - 5 01/16/2003 (195191)
  - 6 01/16/2003 (195195)
  - 7 04/16/2003 (195157)
  - 8 04/16/2003 (195160)
  - 9 04/16/2003 (195165)
  - 10 09/02/2003 (311098)
  - 11 09/02/2003 (311092)
  - 12 09/02/2003 (311095)
  - 13 10/05/2003 (311105)
  - 14 10/15/2003 (311103)
  - 15 12/03/2003 (311101)
  - 16 01/20/2004 (311107)
  - 17 01/20/2004 (311108)
  - 18 01/20/2004 (311109)
  - 19 04/08/2004 (311086)
  - 20 04/08/2004 (311089)
  - 21 04/08/2004 (311090)
  - 22 07/09/2004 (274734)
  - 23 07/26/2004 (358475)
  - 24 07/26/2004 (358476)
  - 25 07/26/2004 (358477)
  - 26 09/10/2004 (333569)
  - 27 03/22/2005 (385353)
  - 28 03/22/2005 (385354)
  - 29 03/22/2005 (385356)
  - 30 03/22/2005 (385357)
  - 31 03/22/2005 (385358)
  - 32 03/22/2005 (385359)
  - 33 03/22/2005 (385360)

34 03/22/2005 (385361)  
35 04/13/2005 (385355)  
36 05/06/2005 (583660)  
37 06/03/2005 (583663)  
38 07/15/2005 (583666)  
39 09/01/2005 (403121)  
40 09/23/2005 (583669)  
41 10/26/2005 (583673)  
42 11/08/2005 (583675)  
43 11/09/2005 (583671)  
44 12/16/2005 (583677)  
45 01/17/2006 (583679)  
46 02/13/2006 (583654)  
47 03/10/2006 (583656)  
48 04/11/2006 (583658)  
49 05/09/2006 (583661)  
50 06/20/2006 (583664)  
51 07/10/2006 (583667)  
52 08/10/2006 (583670)  
53 09/12/2006 (583672)  
54 10/11/2006 (583674)  
55 01/23/2007 (583676)  
56 01/23/2007 (583678)  
57 04/02/2007 (583680)  
58 04/13/2007 (583655)  
59 04/13/2007 (583657)  
60 04/13/2007 (583659)  
61 07/26/2007 (583668)  
62 07/26/2007 (583662)  
63 07/26/2007 (583665)

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

Date: 11/30/2002 (195191)

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

Classification: Moderate

Date: 12/31/2002 (195195)

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

Classification: Moderate

Date: 02/28/2003 (195160)

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

Classification: Moderate

Date: 03/31/2003 (195165)

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

Classification: Moderate

Date: 06/30/2003 (311098)

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

Classification: Moderate

Date: 07/31/2003 (311101)

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

Classification: Moderate

Date: 08/31/2003 (311103)

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

Classification: Moderate

Date: 09/30/2003 (311105)

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

Classification: Moderate

Date: 10/31/2003 (311107)  
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: 11/30/2003 (311108)  
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: 12/31/2003 (311109)  
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: 01/31/2004 (311086)  
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: 02/29/2004 (311089)  
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: 03/31/2004 (311090)  
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 (358477)  
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: 07/16/2004 (274734)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)(1)  
TWC Chapter 26 26.121(a)(2)  
TWC Chapter 26 26.121(a)(3)  
TWC Chapter 26 26.121(a)[G]  
TWC Chapter 26 26.121(b)  
TWC Chapter 26 26.121(c)  
TWC Chapter 26 26.121(d)  
TWC Chapter 26 26.121(e)  
TWC Chapter 26 26.121[G]  
Description: Failure to prevent unauthorized discharges.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet self-monitored effluent limitations.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to submit non-compliance notifications.

Date: 07/31/2004 (385356)  
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: 08/31/2004 (385357)  
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: 06/30/2005 (583666)

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

Classification: Moderate

Date: 08/29/2005 (403121)

Self Report? NO  
Citation: TWC Chapter 26 26.121  
Description: Failure to prevent an unauthorized discharge from the waste water treatment plant resulting in a fish kill.

Classification: Major

Date: 08/31/2005 (583671)

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

Classification: Moderate

Date: 09/30/2005 (583673)

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

Classification: Moderate

Date: 10/31/2005 (583675)

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

Classification: Moderate

Date: 11/30/2005 (583677)

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

Classification: Moderate

Date: 12/31/2005 (583679)

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

Classification: Moderate

Date: 01/31/2006 (583654)

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

Classification: Moderate

Date: 02/28/2006 (583656)

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

Classification: Moderate

Date: 03/31/2006 (583658)

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

Classification: Moderate

Date: 05/31/2006 (583664)

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

Classification: Moderate

Date: 06/30/2006 (583667)

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

Classification: Moderate

Date: 07/31/2006 (583670)  
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: 08/31/2006 (583672)  
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: 09/30/2006 (583674)  
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: 10/31/2006 (583676)  
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: 11/30/2006 (583678)  
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: 12/31/2006 (583680)  
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: 01/31/2007 (583655)  
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: 02/28/2007 (583657)  
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: 03/31/2007 (583659)  
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: 04/30/2007 (583662)  
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: 05/31/2007 (583665)  
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: 06/30/2007 (583668)  
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

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF POTTSBORO  
RN101920072

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

**AGREED ORDER**  
**DOCKET NO. 2007-1594-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding City of Pottsboro (“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 presented this agreement to the Commission.

The City 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 City 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 City.

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

**I. FINDINGS OF FACT**

1. The City owns and operates a domestic wastewater treatment facility located on County Line Road at Little Mineral Creek, approximately 1.6 miles north of the intersection of Farm-to-Market Road 120 and Farm-to-Market Road 996 in Grayson 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. During an investigation on March 6, 2007, TCEQ staff observed that the aerators in several oxidation channels were not in operation and replacement aerators were not available for installation and that the water in all treatment units was black in color and contained excessive solids and foam.
4. During an investigation on March 6, 2007, TCEQ staff documented that water in the receiving stream from the outfall to approximately 200 yards downstream was blackish-gray in color and there were excessive sludge deposits in the shallow areas of the stream. Effluent samples collected by the investigator during discharge from the outfall revealed excessively high concentrations of ammonia-nitrogen (29.7 milligrams per liter ("mg/L")), carbonaceous biochemical oxygen demand (802 mg/L), and total suspended solids (5,340 mg/L).
5. During a record review on September 11, 2007, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports:



EFFLUENT VIOLATION TABLE												
Permitted Effluent Limits	Monitoring Period End Date											
	7/31/06	8/31/06	9/30/06	10/31/06	11/30/06	12/31/06	1/31/07	2/28/07	3/31/07	4/30/07	5/31/07	6/30/07
DO monthly min. 4.0 mg/L	c	c	c	c	c	c	c	c	1.8	c	c	1.25
TSS daily avg. loading 44 lbs/day	c	c	c	c	83.3	c	c	c	c	70.8	c	c
TSS daily avg. conc. 15 mg/L	c	c	c	c	23.2	43.4	17.25	18.2	29.2	c	15.61	18.3
TSS max. single grab 60 mg/L	c	c	c	c	c	69	c	c	95	c	c	c
NH <sub>3</sub> -N daily avg. loading 8.8 lbs/day	c	22.2	16.5	34.6	64.2	50	64.2	61.3	33.9	8.93	23.8	10.84
NH <sub>3</sub> -N daily avg. conc. 3 mg/L	5.3	13.2	10.0	14.8	27.7	40.9	25.35	27.2	22.7	5.41	10.21	7.12
NH <sub>3</sub> -N max. single grab 15 mg/L	c	20.9	17.0	31.5	36	88	31.8	29.7	66.4	c	15.1	15.2
Flow daily avg. 0.35 MGD	c	c	c	c	c	0.4	c	c	c	0.75	0.648	0.669
TCR monthly max. 4.0 mg/L	c	c	c	c	5.0	5.0	4.2	c	4.5	4.2	c	c
CBOD <sub>5</sub> daily avg. loading 29 lbs/day	c	c	c	c	53.4	56	c	55.3	c	35.2	c	c
CBOD <sub>5</sub> daily avg. conc. 10 mg/L	c	c	c	c	18.2	47.4	11.6	26.75	13.72	c	c	c
CBOD <sub>5</sub> max. single grab 35 mg/L	c	c	c	c	c	117	c	56	44	38	c	41

avg. = average

c = compliant

CBOD<sub>5</sub> = carbonaceous biochemical oxygen demand

conc. = concentration

DO = dissolved oxygen

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per liter

MGD = million gallons per day

min. = minimum

NH<sub>3</sub>-N = ammonia nitrogen

TCR = total chlorine residual

TSS = total suspended solids

6. During a record review on September 11, 2007, TCEQ staff determined that the City did not timely submit the annual sludge reports for monitoring periods ending July 31, 2005 and July 31, 2006.
7. During a record review on September 11, 2007, TCEQ staff determined that the City did not submit written reports for effluent values that exceeded 40% of the permitted limit for the months of July 2006 through June 2007.
8. The City received notices of the violations on April 28, 2007 and October 8, 2007.



9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
  - a. On or before March 26, 2007, removed and properly disposed of the accumulated solids from the receiving stream;
  - b. On or before March 31, 2007, rented a belt press and removed and properly disposed of approximately 200,000 gallons of liquid sludge from the Facility;
  - c. By March 31, 2007, completely rehabilitated the sludge drying beds to ensure timely and continuous sludge removal from the Facility;
  - d. By June 30, 2007:
    - i. Installed nine new aerators in the oxidation channels;
    - ii. Installed additional heaters to the aerators to prevent the interruption of service due to breakers tripping;
    - iii. Initiated a maintenance schedule to ensure that the aerators are properly cleaned on a regular basis; and
  - e. On September 17, 2007, contracted with the Greater Texoma Utility Authority to provide certified operators to ensure that the Facility is properly maintained and that all reporting requirements, including procedures to ensure that the annual sludge reports and written reports for effluent violations which deviate by more than 40% from the permit limit, are properly submitted to the TCEQ.

## **II. CONCLUSIONS OF LAW**

1. The City 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 City failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010591001, Operational Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the City failed to prevent the discharge and accumulation of sludge in the receiving stream, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4), and TPDES Permit No. WQ0010591001, Permit Conditions No. 2.d. and Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 4.



4. As evidenced by Findings of Fact No. 5, the City failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010591001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6.
5. As evidenced by Findings of Fact No. 6, the City failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010591001, Sludge Provisions.
6. As evidenced by Findings of Fact No. 7, the City failed to report in writing to the TCEQ any effluent violation which deviates from the permitted effluent limitations by more than 40%, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010591001, Monitoring and Reporting Requirements No. 7.c.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City 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.
8. An administrative penalty in the amount of One Hundred Ninety-Four Thousand Seven Hundred Twenty-Five Dollars (\$194,725) 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 Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the City and determined that the City is unable to pay part of the administrative penalty. Therefore, Seventy-Three Thousand Eight Hundred Twenty-Eight Dollars (\$73,828) of the penalty 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, including the payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty. One Hundred Twenty Thousand Eight Hundred Ninety-Seven Dollars (\$120,897) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

### III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of One Hundred Ninety-Four Thousand Seven Hundred Twenty-Five Dollars (\$194,725) as set forth in Section II, Paragraph 8 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City'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 Pottsboro, Docket No. 2007-1594-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 SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 8, One Hundred Twenty Thousand Eight Hundred Ninety-Seven Dollars (\$120,897) 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. Within 180 days after the effective date of this Agreed Order, the City shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010591001, 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 include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

4. 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.
5. 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.
6. 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.
7. 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 City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

5/11/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Pottsboro. I am authorized to agree to the attached Agreed Order on behalf of the City of Pottsboro, 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 Pottsboro 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

MARCH 19, 2008  
Date

FRANK BUDRA  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Pottsboro

MAYOR  
\_\_\_\_\_  
Title

**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 Numbers: 2007-1594-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Pottsboro
<b>Penalty Amount:</b>	One Hundred Twenty Thousand Eight Hundred Ninety-Seven Dollars (\$120,897)
<b>SEP Offset Amount:</b>	One Hundred Twenty Thousand Eight Hundred Ninety-Seven Dollars (\$120,897)
<b>Type of SEP:</b>	Erosion Control Project (Pre-Approved Concept)
<b>Location of SEP:</b>	Grayson 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 conduct erosion control and creek cleanup projects in two creeks that discharge to Lake Texoma in Grayson County. The Respondent shall conduct the work on portions of the two creeks located at the 200 block of East FM 120 and the 500 block of East FM 120. The project will involve using contract labor to install gabion baskets and perform creek cleanup activities. Prior to commencing work, the Respondent shall submit a scope of work to the SEP Coordinator for approval. The scope of work must include a minimum number of gabion baskets that will be installed as well as the exact portions of the creek that are being addressed. All portions of the project will be performed in accordance with federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this 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 erosion, pooling of stagnant water, and downstream sedimentation. The gabion baskets are expected to encourage growth of vegetation and grasses along the stream banks, which will assist in holding the soil in place without significantly impeding the flow of the water but will intercept sediment-laden runoff. Continued erosion leads to high sediment loads in waterways, silting, and disruption of ecosystems. Elimination of stagnant pools of water is expected to minimize breeding areas for mosquitoes that may harbor diseases such as West Nile Virus.



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. The Respondent understands that it may spend more than the required SEP Amount to perform this project. The Respondent agrees not to seek reimbursement from any source for any portion of this project used for the SEP Offset Amount.

**2. Performance Schedule**

The Respondent shall complete the project within one year 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 report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. The Respondent shall submit subsequent progress reports in 90-day intervals thereafter until completion of the project.

B. Final Report

Within 45 days after completion of the project, the Respondent shall submit a final report to the TCEQ which shall include, at a minimum:

1. An itemized list of expenditures and total of costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. Manifests showing proper transport and disposal or recycling of materials;
3. The quantity of materials collected such as number of tires, gallons of paint, etc;
4. Before and after photographs of the project;
5. A map identifying the location of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify completion of the project;
6. A statement of quantifiable environmental benefits; and
7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information or payments 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 Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

**6. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state 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 a SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

