

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1798-MLM-E **TCEQ ID:** RN101609873 **CASE NO.:** 34826

**RESPONDENT NAME:** City of Azle

<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 checked="" 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 checked="" type="checkbox"/> STORMWATER
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Ash Creek Plant, located between State Highway 199 (Jacksboro Highway) and Old Ten Mile-Azle Road west of Eagle Mountain Lake on Ask Creek, Tarrant County</p> <p><b>TYPE OF OPERATION:</b> Lift station and wastewater system</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on October 7, 2007, alleging that overflows from the lift station/manhole were going into Eagle Mountain Lake. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 16, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>SEP Coordinator:</b> Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223  <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> The Honorable Russ Braudis, Mayor, City of Azle, 613 Southwest Pkwy, Azle, Texas 76020  <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 checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>                      October 7, 2008</p> <p><b>Date of Investigation/Record Review Relating to this Case:</b> September 24, October 9, and December 13, 2007</p> <p><b>Date of NOEs Relating to this Case:</b>                      October 8, 2007 and January 3, 2008</p> <p><b>Background Facts:</b> This was a routine investigation and a record reviews.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permitted limits for ammonia-nitrogen and flow [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011183003, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to prevent unauthorized discharges [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0011183003, Permit Conditions No. 2.g., and TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$25,920</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$25,920</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</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> This is a Findings Order because the Respondent had three previous enforcement actions for the same violations over the prior five year period.</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility by January 17, 2008;</p> <p>a) Repaired the electrical equipment at the Harbor Circle Drive lift station. Specifically, the Respondent removed damaged feeder wire and added two new risers;</p> <p>b) Replaced lift station controls at the Harbor Drive Circle lift station;</p> <p>c) Treated sewer lines with a grease control chemical and began jetting the lines on a weekly basis; and</p> <p>d) Submitted documentation demonstrating compliance with permitted effluent limits for four consecutive months.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

Additional ID No(s): WQ0011183003 and TX023116

Attachment A  
Docket Numbers: 2007-1798-MLM-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Azle
<b>Penalty Amount:</b>	Twenty-Five Thousand Nine Hundred Twenty Dollars (\$25,920)
<b>SEP Offset Amount:</b>	Twenty-Five Thousand Nine Hundred Twenty Dollars (\$25,920)
<b>Type of SEP:</b>	Household Hazardous Waste Collection Event and Cleanup Event (pre-approved concept)
<b>Location of SEP:</b>	Tarrant 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 hold a collection event and a cleanup event to collect, properly dispose, or recycle household hazardous waste ("HHW") and non-hazardous materials. For the collection event, the Respondent shall offer drop-off locations for HHW and other items at no cost to the public. The collection event will include collection and proper disposal or recycling of used paint, acids, cleaners, pesticides, herbicides, oil, oil filters, batteries, and antifreeze. The Respondent shall also collect and properly dispose of or recycle non-hazardous materials such as tires, brush, concrete, logs, furniture, and other large bulky items. For the Cleanup Event, the Respondent shall remove and properly dispose of illegally dumped trash and tires from a creek in Tarrant County.

The Respondent shall ensure that the collection event:

- occurs on a weekend during daylight hours
- offers to the public a convenient drop-off location
- is advertised in at least one newspaper of large circulation in the geographic area

SEP monies related to this Order will be used for the direct costs of conducting the event including, but not limited to, roll-off bins, heavy equipment, advertising for the event, labor, material transport, and disposal costs. The Respondent shall perform these projects in accordance with all federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the projects and no portion shall be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do these projects and that they are being performed solely in an effort to settle this enforcement action.



B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, which will help rid the community of the dangers and health threats associated with non-regulated dumping. The SEP will also provide for recycling of materials, which will help reduce valuable landfill space.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the projects 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 these projects.

**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 thereafter submit progress reports in 90-day increments until the projects are completed.

B. Final Report

Within 45 days after completion of the projects, the Respondent shall submit a report to the TCEQ which includes:

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 statement of quantifiable environmental benefits; and
6. 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 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>	Assigned	8-Oct-2007	Screening	14-Oct-2007	EPA Due	5-Dec-2007
	PCW	5-Nov-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Azle
Reg. Ent. Ref. No.	RN101609873
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34826	No. of Violations	2	
Docket No.	2007-1798-MLM-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Cheryl Thompson	
Multi-Media		EC's Team	EnforcementTeam 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$7,500

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

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

**Compliance History** 102% Enhancement Subtotals 2, 3, & 7 \$7,650

Notes: The Respondent self-reported 14 months of effluent violations and received two NOV's for same or similar violations and one NOV for non-similar violations and one Agreed Order with denial language.

**Culpability** No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 10% Reduction Subtotal 5 \$750

Before NOV    NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes: The Respondent returned to compliance on January 17, 2008.

**Total EB Amounts** \$124 0% Enhancement\* Subtotal 6 \$0  
 Approx. Cost of Compliance \$2,000 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$14,400

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$14,400

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$14,400

**DEFERRAL** 0% Reduction Adjustment \$0

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

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** \$14,400

**Screening Date** 14-Oct-2007

**Docket No.** 2007-1798-MLM-E

**PCW**

**Respondent** City of Azle

Policy Revision 2 (September 2002)

**Case ID No.** 34826

PCW Revision September 19, 2007

**Reg. Ent. Reference No.** RN101609873

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

**Compliance History Worksheet**

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

**Component** **Number of...** *Enter Number Here* **Adjust.**

NOVs	Written NOV's with same or similar violations as those in the current enforcement action <i>(number of NOV's meeting criteria)</i>	16	80%
	Other written NOV's	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	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 judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an Intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

*Please Enter Yes or No*

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

**Adjustment Percentage (Subtotal 2)** 102%

>> **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 self-reported 14 months of effluent violations and received two NOV's for same or similar violations and one NOV for non-similar violations and one Agreed Order with denial language.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 102%

<b>Screening Date</b> 14-Oct-2007	<b>Docket No.</b> 2007-1798-MLM-E	<b>PCW</b>
<b>Respondent</b> City of Azle		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34826		<small>PCW Revision September 19, 2007</small>
<b>Reg. Ent. Reference No.</b> RN101609873		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Cheryl Thompson		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	TPDES Permit No. WQ0011183003, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)	
<b>Violation Description</b>	Failed to comply with permitted limits during February 2007, as depicted 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
	Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="50%"/>

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Using a simplified model, it was determined that human health or the environment has been exposed to significant pollutants which do not exceed levels that are protective of human health or the environment as the result of the excursions.				

**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 checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

**Violation Base Penalty**

One monthly event is recommended.

**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 Azle  
**Case ID No.** 34826  
**Reg. Ent. Reference No.** RN101609873  
**Media** Water Quality  
**Violation No.** 1

<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
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No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$2,000	28-Feb-2007	17-Jan-2008	0.9	\$6	\$118	\$124
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

Estimated cost to repair electrical equipment that caused the excursion. Date required is the month the first non-compliant excursion was documented. 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

\$2,000

TOTAL

\$124

<b>Screening Date</b> 14-Oct-2007	<b>Docket No.</b> 2007-1798-MLM-E	<b>PCW</b>
<b>Respondent</b> City of Azle		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 34826		<i>PCW Revision September 19, 2007</i>
<b>Reg. Ent. Reference No.</b> RN101609873		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Cheryl Thompson		
<b>Violation Number</b>	2	
<b>Rule Cite(s)</b>	TPDES Permit No. WQ0011183003, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)	
<b>Violation Description</b>	Failed to comply with permitted limits during March, April, and May, 2007, as depicted 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>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<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%"/>
<b>Matrix Notes</b>	Using a simplified model, it was determined that human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment as the result of the excursions.				

**Adjustment**

**Violation Events**

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="62"/>	Number of violation days												
<i>mark only one with an x</i>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black; width: 50px;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black;"><input checked="" type="text" value="x"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="text" value="x"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input checked="" type="text" value="x"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													

One quarterly event is recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$4,800"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$4,800"/>	

## Economic Benefit Worksheet

**Respondent:** City of Azle  
**Case ID No.** 34826  
**Reg. Ent. Reference No.** RN101609873  
**Media:** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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 violation #1.

**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

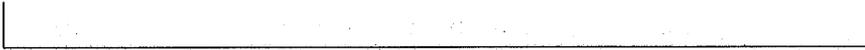
Approx. Cost of Compliance

\$0

**TOTAL**

\$0







# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

<b>DATES</b>	Assigned	8-Oct-2007	Screening	14-Oct-2007	EPA Due	5-Dec-2007
	PCW	5-Nov-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Azle		
Reg. Ent. Ref. No.	RN101609873		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	34826	No. of Violations	1
Docket No.	2007-1798-MLM-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Cheryl Thompson
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: The Respondent self-reported 14 months of effluent violations and received two NOV's for same or similar violations and one NOV for non-similar violations and one Agreed Order with denial language.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**  Reduction **Subtotal 5**

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

Notes: The Respondent returned to compliance on January 17, 2008.

**Total EB Amounts**  **Subtotal 6**   
**Approx. Cost of Compliance**  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

**Screening Date** 14-Oct-2007

**Docket No.** 2007-1798-MLM-E

**PCW**

**Respondent** City of Azle

Policy Revision 2 (September 2002)

**Case ID No.** 34826

PCW Revision September 19, 2007

**Reg. Ent. Reference No.** RN101609873

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

### 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)	16	80%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 submitted)	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%
<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)** 102%

>> **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 self-reported 14 months of effluent violations and received two NOV's for same or similar violations and one NOV for non-similar violations and one Agreed Order with denial language.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 102%

<b>Screening Date</b> 14-Oct-2007	<b>Docket No.</b> 2007-1798-MLM-E	<b>PCW</b>		
<b>Respondent</b> City of Azle		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 34826		<small>PCW Revision September 19, 2007</small>		
<b>Reg. Ent. Reference No.</b> RN101609873				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Cheryl Thompson				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0011183003, Permit Conditions No. 2.g. and Tex. Water Code § 26.121			
<b>Violation Description</b>	Failed to prevent unauthorized discharges. Specifically, the Respondent had unauthorized discharges on July 27, 2007 (2,000 gallons), July 28, 2007(500 gallons), August 11, 2007 (200 gallons), October 6, 2007(400 gallons), October 16, 2007 (50 gallons) and November 11, 2007 (200 gallons) from the Harbor Circle lift station.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	x
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<b>Percent</b>	<input type="text" value="10%"/>		
<b>&gt;&gt;Programmatic Matrix</b>				
	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 has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment as a result of this violation.			
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>		
			<input type="text" value="\$1,000"/>	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="6"/>	<b>Number of violation days</b>	
		<input type="text" value="6"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$6,000"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
	Six single events are recommended.			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	<b>Estimated EB Amount</b>	<input type="text" value="\$24"/>	<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$11,520"/>	
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$11,520"/>	

## Economic Benefit Worksheet

**Respondent** City of Azle  
**Case ID No.** 34826  
**Reg. Ent. Reference No.** RN101609873  
**Media** Water Quality  
**Violation No.** 3

<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				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	27-Jul-2007	17-Jan-2008	0.5	\$24	n/a	\$24

**Notes for DELAYED costs**  
 Estimated cost to prevent unauthorized discharges. Specifically, the cost to treat sewer lines with grease control chemical and jet sewer lines. Date required is the date of the first unauthorized discharge. 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 \$1,000

**TOTAL** \$24

## Compliance History

Customer/Respondent/Owner-Operator:	CN600244032	City of Azle	Classification: AVERAGE	Rating: 2.46
Regulated Entity:	RN101609873	ASH CREEK PLANT	Classification: AVERAGE	Site Rating: 1.36
ID Number(s):	WASTEWATER	PERMIT		TX0023116000
	WASTEWATER	PERMIT		WQ0011183003
	WASTEWATER	PERMIT		TX0023116000
	WASTEWATER	PERMIT		TX0023116
	WASTEWATER LICENSING	LICENSE		WQ0011183003
Location:	located between State Highway 199 (Jacksboro Highway) and Old Ten Mile-Azle Road West of Eagle Mountain Lake on Ash Creek			Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	October 19, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 19, 2002 to October 19, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Cheryl Thompson		Phone:	N/A

### 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.
- |                                                                                                                                                                                                                                                                                                                      |                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| Effective Date: 07/15/2005                                                                                                                                                                                                                                                                                           | ADMINORDER 2003-1153-MWD-E |
| Classification: Moderate                                                                                                                                                                                                                                                                                             |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)<br>TWC Chapter 26 26.121(a)[G]                                                                                                                                                                                                                                 |                            |
| Rqmt Prov: Effluent Limitations and Monitoring Reqs PERMIT<br>Final Effluent Limits PERMIT                                                                                                                                                                                                                           |                            |
| Description: Allowed exceedances of the permitted ammonia-nitrogen effluent limits at the outfall. The referenced outfall is listed as 003 in the current/effective WQ permit, and as 001A in the current/effective NPDES permit. The violations are as follows: [see Description Comment Box within this violation] |                            |
- 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  | 10/21/2002 | (167053) |
| 2  | 11/21/2002 | (167057) |
| 3  | 12/19/2002 | (167061) |
| 4  | 01/21/2003 | (167065) |
| 5  | 02/18/2003 | (167025) |
| 6  | 03/19/2003 | (167028) |
| 7  | 04/22/2003 | (167033) |
| 8  | 05/22/2003 | (167037) |
| 9  | 06/23/2003 | (167041) |
| 10 | 07/25/2003 | (299115) |
| 11 | 07/25/2003 | (299117) |
| 12 | 07/25/2003 | (144595) |
| 13 | 08/26/2003 | (150709) |
| 14 | 09/18/2003 | (299119) |
| 15 | 10/02/2003 | (250897) |
| 16 | 10/17/2003 | (299121) |
| 17 | 11/18/2003 | (299122) |
| 18 | 12/19/2003 | (299123) |
| 19 | 01/21/2004 | (299124) |
| 20 | 02/17/2004 | (299106) |
| 21 | 03/16/2004 | (299108) |



22	04/14/2004	(269274)
23	04/19/2004	(299109)
24	05/18/2004	(299111)
25	06/21/2004	(299113)
26	07/19/2004	(353601)
27	08/18/2004	(353602)
28	09/21/2004	(353603)
29	10/11/2004	(334725)
30	10/14/2004	(353604)
31	11/18/2004	(353605)
32	11/18/2004	(341575)
33	12/20/2004	(382707)
34	01/21/2005	(382708)
35	02/18/2005	(382706)
36	03/17/2005	(420511)
37	04/19/2005	(420512)
38	05/17/2005	(420513)
39	06/15/2005	(420514)
40	07/19/2005	(441548)
41	07/19/2005	(441549)
42	09/19/2005	(441550)
43	10/18/2005	(469867)
44	11/18/2005	(469868)
45	12/20/2005	(469869)
46	01/23/2006	(469870)
47	02/24/2006	(469864)
48	03/16/2006	(469865)
49	04/17/2006	(469866)
50	05/22/2006	(499092)
51	05/25/2006	(466534)
52	05/31/2006	(466322)
53	06/19/2006	(499093)
54	07/17/2006	(521139)
55	07/17/2006	(521140)
56	09/18/2006	(545635)
57	10/16/2006	(545636)
58	10/16/2006	(512402)
59	11/16/2006	(545637)
60	12/15/2006	(545638)
61	01/15/2007	(545639)
62	02/20/2007	(577320)
63	03/19/2007	(577321)
64	04/23/2007	(577322)
65	05/24/2007	(577323)
66	06/21/2007	(577324)
67	06/21/2007	(577325)
68	10/08/2007	(595640)

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

Date	02/28/2003	(167028)		
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	03/31/2003	(167033)		
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	08/28/2003	(150709)		
Self Report?	NO		Classification	Major
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)			
Description:	Failure to obtain authorization to discharge storm water associated with industrial activity.			
Date	08/31/2003	(299119)		
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	09/30/2003	(299121)		
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	07/31/2004	(353602)		
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	10/08/2004 (334725)		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet permitted effluent limits for NH3N		
Date	11/30/2004 (382707)		
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	12/31/2004 (382708)		
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	03/31/2005 (420512)		
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 (441548)		
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	07/31/2005 (441549)		
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	10/13/2006 (512402)		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet permit limit for total chlorine residual (TCR).		
Date	02/28/2007 (577321)		
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 (577322)		
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 (577323)		
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 (577324)		
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 AZLE  
RN101609873**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-1798-MLM-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 the City of Azle (“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 Harbor Circle lift station and a wastewater system with a manhole located between State Highway 199 (Jacksboro Highway) and Old Ten Mile-Azle Road west of Eagle Mountain Lake on Ash Creek, Tarrant County, Texas (the "Facility").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. During a record review on September 24, 2007, TCEQ staff documented exceedences of its permit effluent limits, as indicated in the table below:

	<b>Ammonia Nitrogen Daily Average</b>	<b>Ammonia Nitrogen Daily Average</b>	<b>Ammonia Nitrogen Daily Maximum</b>	<b>Flow Daily Average</b>
<b><i>Month/Year</i></b>	<b>2 mg/L</b>	<b>16 lbs/day</b>	<b>10 mg/L</b>	<b>0.941 MGD</b>
<b>Feb-07</b>	<b>8.207</b>	<b>44.361</b>	<b>12</b>	<b>c</b>
<b>Mar-07</b>	<b>2.361</b>	<b>c</b>	<b>c</b>	<b>c</b>
<b>Apr-07</b>	<b>c</b>	<b>c</b>	<b>c</b>	<b>1.096</b>
<b>May-07</b>	<b>3.634</b>	<b>25.982</b>	<b>c</b>	<b>c</b>

milligrams per liter = mg/L  
 compliant = c  
 MGD= million gallons per day  
 lbs/day = pounds per day

4. During an investigation conducted on October 9, 2007 and a record review conducted on December 13, 2007, TCEQ staff documented unauthorized discharges. Specifically, the City had unauthorized discharges on July 27, 2007 (2,000 gallons), July 28, 2007 (500 gallons), August 11, 2007 (200 gallons), October 6, 2007 (400 gallons), October 16, 2007 (50 gallons) and November 11, 2007 (200 gallons) from the Harbor Circle lift station.
5. The City received notice of the violations on October 13, 2007 and January 8, 2008.

**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 comply with permitted limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011183003, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).



3. As evidenced by Findings of Fact No. 4, the City failed to prevent unauthorized discharges, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0011183003, Permit Conditions No. 2.g., and TEX. WATER CODE § 26.121(a).
4. 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.
5. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility by January 17, 2008:
  - a. Repaired the electrical equipment at the Harbor Circle Drive lift station. Specifically, the City removed damaged feeder wire and added two new risers;
  - b. Replaced lift station controls at the Harbor Drive Circle lift station;
  - c. Treated sewer lines with a grease control chemical and began jetting the lines on a weekly basis and;
  - d. Submitted documentation demonstrating compliance with permitted effluent limits for four consecutive months.
6. An administrative penalty in the amount of Twenty-Five Thousand Nine Hundred Twenty Dollars (\$25,920) 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. Twenty-Five Thousand Nine Hundred Twenty Dollars (\$25,920) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

### 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 Twenty-Five Thousand Nine Hundred Twenty Dollars (\$25,920) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the 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 Azle, Docket No. 2007-1798-MLM-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 II Paragraph 6 above, Twenty-Five Thousand Nine Hundred Twenty Dollars (\$25,920) 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. 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.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the 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.



9. 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.
10. 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

John Srollier  
For the Executive Director

7/2/2008  
Date

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

Russ Brandis  
Signature

4-1-08  
Date

Russ Brandis  
Name (Printed or typed)  
Authorized Representative of  
City of Azle

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: 2007-1798-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Azle
<b>Penalty Amount:</b>	Twenty-Five Thousand Nine Hundred Twenty Dollars (\$25,920)
<b>SEP Offset Amount:</b>	Twenty-Five Thousand Nine Hundred Twenty Dollars (\$25,920)
<b>Type of SEP:</b>	Household Hazardous Waste Collection Event and Cleanup Event (pre-approved concept)
<b>Location of SEP:</b>	Tarrant 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 hold a collection event and a cleanup event to collect, properly dispose, or recycle household hazardous waste ("HHW") and non-hazardous materials. For the collection event, the Respondent shall offer drop-off locations for HHW and other items at no cost to the public. The collection event will include collection and proper disposal or recycling of used paint, acids, cleaners, pesticides, herbicides, oil, oil filters, batteries, and antifreeze. The Respondent shall also collect and properly dispose of or recycle non-hazardous materials such as tires, brush, concrete, logs, furniture, and other large bulky items. For the Cleanup Event, the Respondent shall remove and properly dispose of illegally dumped trash and tires from a creek in Tarrant County.

The Respondent shall ensure that the collection event:

- occurs on a weekend during daylight hours
- offers to the public a convenient drop-off location
- is advertised in at least one newspaper of large circulation in the geographic area

SEP monies related to this Order will be used for the direct costs of conducting the event including, but not limited to, roll-off bins, heavy equipment, advertising for the event, labor, material transport, and disposal costs. The Respondent shall perform these projects in accordance with all federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the projects and no portion shall be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do these projects and that they are being performed solely in an effort to settle this enforcement action.



B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, which will help rid the community of the dangers and health threats associated with non-regulated dumping. The SEP will also provide for recycling of materials, which will help reduce valuable landfill space.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the projects 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 these projects.

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 thereafter submit progress reports in 90-day increments until the projects are completed.

B. Final Report

Within 45 days after completion of the projects, the Respondent shall submit a report to the TCEQ which includes:

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 statement of quantifiable environmental benefits; and
6. 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 to the following address:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality



City of Azle  
Agreed Order – Attachment A Docket No. 2007-1798-MLM-E

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.

