

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-1114-MWD-E **TCEQ ID:** RN101610335 **CASE NO.:** 37950  
**RESPONDENT NAME:** City of Olney

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input 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 Olney, located approximately 1,500 feet southeast of the intersection of Farm-to-Market Road 210 (Spring Creek Road) and State Highway 79, Young County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</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 November 9, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Heather Brister, Enforcement Division, Enforcement Team I, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Brenda Stennett, Mayor, City of Olney, P.O. Box 546, Olney, Texas 76374  <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 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> June 23, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 30, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastewater during electrical power failures. Specifically, the Respondent has a 45 kilowatt generator to provide power for the on-site lift station, but there is not sufficient power to operate the remaining treatment systems at the Facility. In addition, the Respondent does not have sufficient provisions to provide emergency power to the lift stations in the collection system, in the event of a power failure [30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010050001, Operational Requirements No. 4].</p> <p>2) Failure to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the investigator noted one of the two rotors for the oxidation ditch was out of service and in need of mechanical repair [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0010050001, Operational Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$3,885</p> <p><b>Total Deferred:</b> \$777  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,108</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>The Executive Director recognizes that on September 28, 2009, the Respondent adopted a budget which included the purchase of a generator to be installed at the Facility.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, replace the aeration rotor in the oxidation ditch;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a; and</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification that the Respondent has installed adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	7-Jul-2009			
	PCW	10-Jul-2009	Screening	10-Jul-2009	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Olney
Reg. Ent. Ref. No.	RN101610335
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37950	No. of Violations	2
Docket No.	2009-1114-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$3,500</b>
---	-------------------	----------------

<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.	

<b>Compliance History</b>	11.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$385</b>
---------------------------	-------------------	--------------------------------	--------------

**Notes**  
The penalty is enhanced due to two monthly self-reported effluent violations, one Notice of Violation ("NOV") for violations that are considered to be same or similar, and one NOV for violations that are not considered to be same or similar.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
--------------------	----	------------------	-------------------	------------

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
--	-------------------	------------

<b>Economic Benefit</b>	0.0% Enhancement	<b>Subtotal 6</b>	<b>\$0</b>
-------------------------	------------------	-------------------	------------

Total EB Amounts \$16,358  
Approx. Cost of Compliance \$200,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$3,885</b>
-----------------------------	-----------------------	----------------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
---	------	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>		<b>Final Penalty Amount</b>	<b>\$3,885</b>
--------------	--	-----------------------------	----------------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$3,885</b>
-----------------------------------	-------------------------------	----------------

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$777</b>
-----------------	-----------------	-------------------	---------------

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

**Notes**  
Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$3,108</b>
------------------------	----------------

**Screening Date** 10-Jul-2009

**Docket No.** 2009-1114-MWD-E

**PCW**

**Respondent** City of Olney

Policy Revision 2 (September 2002)

**Case ID No.** 37950

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101610335

**Media [Statute]** Water Quality

**Enf. Coordinator** Heather Brister

### 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)	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments 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)** 11%

>> **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 two monthly self-reported effluent violations, one Notice of Violation ("NOV") for violations that are considered to be same or similar, and one NOV for violations that are not considered to be same or similar.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 11%

<b>Screening Date</b>	10-Jul-2009	<b>Docket No.</b>	2009-1114-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of Olney	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	37950	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b>	RN101610335			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Heather Brister			

<b>Violation Number</b>	1
<b>Rule Cite(s)</b>	30.Tex. Admin. Code § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010050001, Operational Requirements No. 4
<b>Violation Description</b>	Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastewater during electrical power failures, as documented during a record review conducted on June 23, 2009. Specifically, the Respondent has a 45 kilowatt generator to provide power for the on-site lift station, but there is not sufficient power to operate the remaining treatment systems at the facility. In addition, the Respondent does not have sufficient provisions to provide emergency power to the lift stations in the collection system, in the event of a power failure.
<b>Base Penalty</b>	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	X			25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health and environmental receptors as a result of the violation.

<b>Adjustment</b>	\$7,500
	\$2,500

Violation Events

Number of Violation Events	1	17	Number of violation days
mark only one with an x	daily		Violation Base Penalty
	weekly		
	monthly	X	
	quarterly		
	semiannual		
	annual		
	single event		
One monthly event is recommended from the date of the record review (June 23, 2009) to the date of screening (July 10, 2009).			\$2,500

Good Faith Efforts to Comply

	0.0% Reduction	\$0
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b>		\$2,500

Economic Benefit (EB) for this violation

<b>Estimated EB Amount</b>	\$13,549	<b>Statutory Limit Test</b>	
		<b>Violation Final Penalty Total</b>	\$2,775
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$2,775

### Economic Benefit Worksheet

**Respondent:** City of Olney  
**Case ID No.:** 37950  
**Reg. Ent. Reference No.:** RN101610335  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	14-Jan-2009	30-Apr-2010	1.29	\$645	\$12,904	\$13,549
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for a standby generator or alternate power source. Date required is the date the violation was first documented and final date is the expected date of compliance.

**Avoided Costs**

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

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150,000

**TOTAL**

\$13,549

<b>Screening Date</b>	10-Jul-2009	<b>Docket No.</b>	2009-1114-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of Olney	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	37950	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b>	RN101610335			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Heather Brister			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0010050001, Operational Requirements No. 1			
<b>Violation Description</b>	Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, as documented during a record review conducted on June 23, 2009. Specifically, the investigator noted that one of the two rotors for the oxidation ditch was out of service and in need of mechanical repair.			
<b>Base Penalty</b>	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential		X		10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 Number of violation days: 17

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty: \$1,000

One monthly event is recommended from the date of the record review (June 23, 2009) to the date of screening (July 10, 2009).

Good Faith Efforts to Comply: 0.0% Reduction \$0

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

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

Violation Subtotal: \$1,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount: \$2,808 Violation Final Penalty Total: \$1,110

This violation Final Assessed Penalty (adjusted for limits): \$1,110

### Economic Benefit Worksheet

**Respondent** City of Olney  
**Case ID No.** 37950  
**Reg. Ent. Reference No.** RN101610335  
**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50,000	14-Jan-2009	28-Feb-2010	1.12	\$2,808	n/a	\$2,808

Notes for DELAYED costs

Estimated cost to replace the rotor for the oxidation ditch. Date required is the date the violation was first documented and final date is the expected 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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000		<b>TOTAL</b>		\$2,808
----------	--	--------------	--	---------

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600652309	City of Olney	Classification: AVERAGE	Rating: 1.34
Regulated Entity:	RN101610335	CITY OF OLNEY	Classification: AVERAGE	Site Rating: 0.14
ID Number(s):	WASTEWATER		PERMIT	WQ0010050001
	WASTEWATER		PERMIT	TPDES0024261
	WASTEWATER		PERMIT	TX0024261
	WASTEWATER LICENSING		LICENSE	WQ0010050001

**Location:** LOCATED APPROXIMATELY 1,500 FEET SOUTHEAST OF THE INTERSECTION OF FM 210 (SPRING CREEK ROAD) AND STATE HWY 79 IN YOUNG COUNTY, TEXAS.

**TCEQ Region:** REGION 03 - ABILENE  
**Date Compliance History Prepared:** July 09, 2009  
**Agency Decision Requiring Compliance History:** Enforcement  
**Compliance Period:** July 09, 2004 to July 09, 2009  
**TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History**  
**Name:** Heather Brister **Phone:** 254-761-3034

### 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/operator of the site during the compliance period? | No  |
| 3. If Yes, who is the current owner/operator?  | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ?   | N/A |
| 5. When did the change(s) in owner or operator occur?  | N/A |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO   |     |

### 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  | 07/21/2004 | (354068) |
| 2  | 08/06/2004 | (354069) |
| 3  | 09/21/2004 | (354070) |
| 4  | 10/18/2004 | (354071) |
| 5  | 11/16/2004 | (354072) |
| 6  | 12/15/2004 | (382953) |
| 7  | 01/18/2005 | (382954) |
| 8  | 02/17/2005 | (382951) |
| 9  | 03/14/2005 | (382952) |
| 10 | 04/20/2005 | (420778) |
| 11 | 05/16/2005 | (420779) |
| 12 | 06/15/2005 | (420780) |
| 13 | 07/18/2005 | (441760) |
| 14 | 08/15/2005 | (441761) |
| 15 | 09/20/2005 | (441762) |
| 16 | 10/14/2005 | (470304) |
| 17 | 11/28/2005 | (470305) |
| 18 | 12/27/2005 | (470306) |
| 19 | 01/26/2006 | (470307) |
| 20 | 02/22/2006 | (470302) |
| 21 | 03/20/2006 | (470303) |
| 22 | 04/19/2006 | (499389) |
| 23 | 05/16/2006 | (499390) |
| 24 | 06/19/2006 | (499391) |
| 25 | 07/21/2006 | (521435) |
| 26 | 08/18/2006 | (521436) |
| 27 | 09/18/2006 | (521437) |
| 28 | 10/24/2006 | (545970) |
| 29 | 11/20/2006 | (545971) |
| 30 | 12/18/2006 | (545972) |

31	01/18/2007	(577916)
32	02/20/2007	(577911)
33	03/20/2007	(577912)
34	04/25/2007	(577913)
35	05/22/2007	(577914)
36	06/21/2007	(577915)
37	07/12/2007	(602335)
38	08/09/2007	(571602)
39	08/21/2007	(602336)
40	09/17/2007	(602337)
41	10/11/2007	(602338)
42	10/12/2007	(597055)
43	11/16/2007	(620528)
44	12/18/2007	(620529)
45	01/08/2008	(672792)
46	02/12/2008	(672790)
47	03/13/2008	(672791)
48	04/22/2008	(690816)
49	05/20/2008	(670871)
50	05/21/2008	(690817)
51	06/11/2008	(690818)
52	07/10/2008	(682149)
53	07/21/2008	(711688)
54	08/25/2008	(711689)
55	09/24/2008	(711690)
56	10/21/2008	(728171)
57	11/20/2008	(728172)
58	12/19/2008	(728173)
59	01/20/2009	(751135)
60	02/24/2009	(723412)
61	02/26/2009	(751133)
62	03/23/2009	(751134)
63	06/30/2009	(759613)

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

Date: **02/28/2006** (470303) CN600652309  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: **08/13/2007** (565675) CN600652309  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.6  
 30 TAC Chapter 319, SubChapter A 319.9(c)  
 WQ0010050001 PERMIT  
 Description: Failure to calculate standards for dissolved oxygen readings in order to meet quality assurance/ quality control requirements.

Date: **09/30/2008** (728171) CN600652309  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: **02/24/2009** (723412) CN600652309  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Operational Requirements PERMIT  
 Description: Failure to provide adequate safeguards in the event of an electrical power failure.

Self Report? NO Classification: Minor

Citation:	30 TAC Chapter 210, SubChapter B 210.25(g) Permit No. R10050-001 PERMIT		
Description:	Failure to properly mark reclaimed water flow lines.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d) Monitoring and Reporting Requirements PERMIT		
Description:	Failure to provide records for annual calibration of the reclaimed water flow meters.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.9(a) Definitions and Standard Conditions PERMIT		
Description:	Failure to properly collect effluent composite samples.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d) Monitoring and Reporting Requirements PERMIT		
Description:	Failure to maintain an accurate calibration of the primary and secondary flow meters.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 210, SubChapter C 210.33(2) Specific Uses and Quality Standards PERMIT		
Description:	Failure to properly calculate the fecal coliform average.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirements PERMIT		
Description:	Failure to provide a NIST traceable thermometer for the sample storage refrigerator.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirements PERMIT		
Description:	Failure to properly maintain treatment systems at the WWTP.		

- |    |   |     |
|----|---|-----|
| 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 OLNEY  
RN101610335**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-1114-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Olney ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located approximately 1,500 feet southeast of the intersection of Farm-to-Market Road 210 (Spring Creek Road) and State Highway 79 in Young County, Texas (the "Facility").
2. The City has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about July 5, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Eight Hundred Eighty-Five Dollars (\$3,885) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The City has paid Three Thousand One Hundred Eight Dollars (\$3,108) of the administrative penalty and Seven Hundred Seventy-Seven Dollars (\$777) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  9. The Executive Director recognizes that on September 28, 2009, the Respondent adopted a budget which included the purchase of a generator to be installed at the Facility.
  10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
  11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastewater during electrical power failures, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010050001, Operational Requirements No. 4, as documented during a record review conducted on June 23, 2009. Specifically, the City has a 45 kilowatt generator to provide power for the on-site lift station, but there is not sufficient power to operate the remaining treatment systems at the Facility. In addition, the City does not have sufficient provisions to provide emergency power to the lift stations in the collection system, in the event of a power failure.
2. Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0010050001, Operational Requirements No. 1, as documented during a record review on June 23, 2009. Specifically, the investigator noted one of the two rotors for the oxidation ditch was out of service and in need of mechanical repair.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Olney, Docket No. 2009-1114-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. It is further ordered that the City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, replace the aeration rotor in the oxidation ditch;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.c. below; and
  - c. Within 90 days after the effective date of this Agreed Order, submit written certification that the City has installed adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

10/14/2009  
\_\_\_\_\_  
Date

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

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

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

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

  
\_\_\_\_\_  
Signature

08-26-09  
\_\_\_\_\_  
Date

Brenda Stennett  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Olney

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.

