

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1486-MWD-E **TCEQ ID:** RN101919553 **CASE NO.:** 36603

RESPONDENT NAME: City of Kerens

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: City of Kerens, located approximately one half mile southwest of Kerens, adjacent to Farm-to-Market Road 633, Navarro County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 27, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Mr. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5806; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Joe Baxter, Mayor, City of Kerens, P.O. Box 160, Kerens, Texas 75144 Ms. Cindy Scott, City Secretary, City of Kerens, P.O. Box 160, Kerens, Texas 75144 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 25, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 20, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to prevent an unauthorized discharge of wastewater [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010745001, Permit Conditions No. 2.g].</p> <p>2) Failure to have the reduced-pressure principle backflow prevention device tested annually by a certified technician [30 TEX. ADMIN. CODE § 217.330(b) [formerly, §§ 317.7(i) and 317.4(a)(8)]].</p> <p>3) Failure to timely submit the annual sludge reports [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010745001, Sludge Provisions].</p> <p>4) Failure to report orally and submit noncompliance notifications for an unauthorized discharge [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 7].</p> <p>5) Failure to calibrate all flow measuring devices at least annually [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 5].</p> <p>6) Failure to comply with permitted effluent limitations for dissolved oxygen,</p>	<p>Total Assessed: \$16,725</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$16,725</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On September 16, 2008, submitted the annual sludge reports for the monitoring periods ending July 31, 2005 and 2006;</p> <p>b. By September 29, 2008, removed the excess vegetation from the sludge drying beds, removed the floating grease and solids from the secondary aeration basin and the final clarifier, and had returned the wastewater in the equalization pond back to the treatment units of the Facility;</p> <p>c. On September 30, 2008, had the reduced-pressure principle backflow prevention device tested by a certified technician;</p> <p>d. On September 30, 2008, began implementing the required quality assurance procedures and methods required for sample analysis of total chlorine residual; and</p> <p>e. On November 4, 2008, provided documentation for the completed clean-up of the unauthorized discharge.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of annual sludge reports; and to ensure that written reports for</p>

<p>chlorine residual, ammonia-nitrogen, and carbonaceous biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010745001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>7) Failure to operate and maintain the treatment units of the Facility [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0010745001, Operational Requirements No. 1].</p> <p>8) Failure to submit noncompliance notifications for effluent violations more than 40 percent above the permitted limitation [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 7.c].</p> <p>9) Failure to utilize the quality assurance requirements and effluent analysis methods required [30 TEX. ADMIN. CODE §§ 319.6 and 319.11 and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 2].</p>		<p>unauthorized discharges and effluent violations which deviate by more than 40% from the permitted limit are properly submitted to the TCEQ;</p> <p>b. Within 30 days after the effective date of this Agreed Order, calibrate all automatic flow measuring devices;</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a. and 2.b.;</p> <p>d. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010745001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations;</p> <p>e. Within 120 days after the effective date of this Agreed Order, submit to TCEQ an engineering study, prepared by a Texas registered professional engineer, identifying the significant sources of inflow/infiltration ("I/I") into the collection system and recommending corrective actions necessary to mitigate the effects of I/I;</p> <p>f. Within 180 days after the effective date of this Agreed Order, develop and begin implementing a plan and schedule for mitigating the effects of I/I based upon the results of the engineering study. The plan shall be prepared by a Texas registered professional engineer and shall include a schedule for specific corrective actions, with a completion date of December 31, 2010 included in the schedule;</p> <p>g. Within 240 days after the effective date of this Agreed Order, and by January 31 and July 31 of each year thereafter until December 31, 2010, the Respondent shall submit a progress report describing the actions taken since the implementation of the I/I;</p> <p>h. Within 730 days of the effective date of the Commission Order or by December 31, 2010, whichever is earlier, the Respondent shall complete all phases of the plan; and</p>
--	--	--

		<p>i. Within 745 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.h., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>
--	--	--

Additional ID No(s): WQ0010745001

Attachment A
Docket Numbers: 2008-1486-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Kerens
Penalty Amount:	Sixteen Thousand Seven Hundred Twenty-Five Dollars (\$16,725)
SEP Offset Amount:	Sixteen Thousand Seven Hundred Twenty-Five Dollars (\$16,725)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Navarro 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 two one-day events for the collection, recycling, or proper disposal of tires, batteries, electronics, and lawn clippings. The Respondent shall offer a designated drop-off location where the public can drop off materials for disposal or recycling at no cost to the citizens. The events will be advertised in a local newspaper to increase public awareness of and participation in the events.

The Respondent shall ensure that the events:

- are advertised to the public;
- occur on a weekend during daylight hours;
- offer to the public a convenient drop-off location; and
- include recycling of electronics and vegetative debris

The Respondent shall collect, transport, dispose of, or recycle the collected materials. SEP funds will be used for heavy equipment such as roll-off bins, vehicles, and trailers, as well as overtime labor of employees where appropriate, public announcement of the event, and disposal and recycling costs.

The Respondent shall perform these events 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 events and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the events.

The Respondent certifies that there is no prior commitment of the SEP funds to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The recycling portion of the events will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of wastes that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Collection of waste tires will help prevent illegal tire dumps and help rid the community of the attractive nuisance that can harbor vermin, as well as mosquitoes that can carry West Nile virus. Recycling and proper disposal of tires helps avoid release of harmful chemicals into the atmosphere that could result from fires at illegal tire dump sites.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. The Respondent understands that it may be required to spend more than the offset amount to complete the project.

2. Performance Schedule

The Respondent shall complete both events 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 with the time required above.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, timesheets signed by a supervisor, and any other verifying documentation;
2. A summary of the total amount of costs incurred;

City of Kerens

Agreed Order Docket 2008-1486-MWD-E B Attachment A

3. Number of tires, appliances, batteries, and pounds of electronic waste;
4. Manifests showing proper disposal of wastes or recycling of materials;
5. Photographs of the project;
6. A statement of quantifiable environmental benefits; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount. The Respondent agrees that it will contribute any monetary shortages in the SEP Offset amount to TCEQ within 90 days of the expiration of time to complete the SEP or within 90 days of completion of the projects, whichever occurs first.

In the event that the Respondent does not spend the required SEP Offset Amount on the projects, the Respondent shall remit the remaining balance to TCEQ. The Respondent shall include the docket number of this Agreed Order and a note with the payment, explaining that the payment is for a SEP reimbursement. The check shall be made payable to the Texas Commission on Environmental Quality and shall be mailed 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 funds identified in this Agreed Order have 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 June 12, 2008

DATES	Assigned	25-Aug-2008	Screening	25-Sep-2008	EPA Due	
	PCW	25-Sep-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Kerens
Reg. Ent. Ref. No.	RN101919553
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36603	No. of Violations	9
Docket No.	2008-1486-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merrilee Hupp
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,700
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	75.0% Enhancement	Subtotals 2, 3, & 7	\$7,275
---------------------------	-------------------	--------------------------------	---------

Notes: The Respondent received one NOV with same or similar violations, two orders with a denial of liability, and self-reported six effluent violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$250
--	-------------------	-------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$36,967
Approx. Cost of Compliance	\$203,300

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,725
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$16,725
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,725
-----------------------------------	-------------------------------	----------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	------	-----------	-------------------	-----

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$16,725
------------------------	----------

Screening Date 25-Sep-2008

Docket No. 2008-1486-MWD-E

PCW

Respondent City of Kerens

Policy Revision 2 (September 2002)

Case ID No. 36603

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101919553

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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)	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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%
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) 75%

>> 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 received one NOV with same or similar violations, two orders with a denial of liability, and self-reported six effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 75%

Screening Date 25-Sep-2008	Docket No. 2008-1486-MWD-E	PCW																			
Respondent City of Kerens		<small>Policy Revision 2 (September 2002)</small>																			
Case ID No. 36603		<small>PCW Revision June 12, 2008</small>																			
Reg. Ent. Reference No. RN101919553																					
Media [Statute] Water Quality																					
Enf. Coordinator Merrilee Hupp																					
Violation Number 1																					
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(4), and Texas Pollutant Discharge Elimination System Permit No. WQ0010745001, Permit Conditions No. 2.g.																				
Violation Description	Failed to prevent an unauthorized discharge of wastewater into or adjacent to water in the state. During the investigation on June 25, 2008, the investigator observed debris characteristic of an unauthorized discharge from a manhole prior to the headworks of the Facility. A noncompliance report submitted by the Respondent on October 9, 2008 indicated that beginning at 10:00 a.m. on June 16, 2008, 3,000 to 4,000 gallons of wastewater was discharged from the manhole prior to the headworks of the wastewater treatment facility.																				
	Base Penalty	\$10,000																			
>> Environmental, Property and Human Health Matrix																					
OR	Release	Harm																			
		Major Moderate Minor																			
	Actual	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%; text-align: center;">x</td></tr></table>			x	Percent <input type="text" value="10%"/>															
		x																			
	Potential	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>																			
>> Programmatic Matrix																					
	Falsification	Major Moderate Minor																			
	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>				<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>				Percent <input type="text" value="0%"/>												
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants.																				
	Adjustment	\$9,000																			
			\$1,000																		
Violation Events																					
	Number of Violation Events	<input type="text" value="2"/>	Number of violation days																		
		<input type="text" value="101"/>																			
<small>mark only one with an x</small>	Frequency	<table border="1" style="width:100%;"><tr><td style="width:33%;">daily</td><td style="width:33%;"></td><td style="width:33%;"></td></tr><tr><td>monthly</td><td></td><td></td></tr><tr><td>quarterly</td><td style="text-align: center;">x</td><td></td></tr><tr><td>semiannual</td><td></td><td></td></tr><tr><td>annual</td><td></td><td></td></tr><tr><td>single event</td><td></td><td></td></tr></table>	daily			monthly			quarterly	x		semiannual			annual			single event			Violation Base Penalty
daily																					
monthly																					
quarterly	x																				
semiannual																					
annual																					
single event																					
			\$2,000																		
Two quarterly events are recommended from the date the unauthorized discharge began (June 16, 2008) to the screening date (September 25, 2008).																					
Good Faith Efforts to Comply		0.0% Reduction	\$0																		
		<small>Before NOV NOV to EDRP/Settlement Offer</small>																			
	Extraordinary	<table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%;"></td></tr></table>																			
	Ordinary	<table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%;"></td></tr></table>																			
	N/A	<table border="1" style="width:100%;"><tr><td style="width:50%; text-align: center;">x</td><td style="width:50%; text-align: center;">(mark with x)</td></tr></table>	x	(mark with x)																	
x	(mark with x)																				
Notes	The Respondent does not meet the good faith effort criteria for this violation.																				
			Violation Subtotal \$2,000																		
Economic Benefit (EB) for this violation		Statutory Limit Test																			
	Estimated EB Amount	<input type="text" value="\$35,595"/>	Violation Final Penalty Total																		
			\$3,500																		
This violation Final Assessed Penalty (adjusted for limits)			\$3,500																		

Economic Benefit Worksheet

Respondent: City of Kerens
Case ID No.: 36603
Reg. Ent. Reference No.: RN101919553
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$200,000	16-Jun-2008	31-Dec-2010	2.54	\$1,695	\$33,900	\$35,595
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 to complete an engineering study to identify the significant sources of inflow and infiltration and implement the recommendations to prevent unauthorized discharges from the collection line and manholes. Date required is the date of the unauthorized discharge and final date is the date unauthorized discharges are expected to be prevented by addressing the problems in the collection line.

Avoided Costs

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

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

\$200,000

TOTAL

\$35,595

Screening Date 25-Sep-2008	Docket No. 2008-1486-MWD-E	PCW	
Respondent City of Kerens	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36603	<small>PCW Revision June 12, 2008</small>		
Reg. Ent. Reference No. RN101919553			
Media [Statute] Water Quality			
Enf. Coordinator Merrilee Hupp			
Violation Number <input type="text" value="2"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 217.330(b) [formerly, §§ 317.7(i) and 317.4(a)(8)]"/>		
Violation Description	<input type="text" value="Failed to have the reduced-pressure principle backflow prevention device tested annually by a certified technician."/>		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>
			Percent <input type="text" value="10%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>		
Adjustment			<input type="text" value="\$9,000"/>
			<input type="text" value="\$1,000"/>
Violation Events			
Number of Violation Events <input type="text" value="1"/>		<input type="text" value="365"/> Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text" value="x"/>	
	single event	<input type="text"/>	
			Violation Base Penalty <input type="text" value="\$1,000"/>
<input type="text" value="One annual event is recommended for the twelve months prior to the investigation date, June 25, 2008."/>			
Good Faith Efforts to Comply		10.0% Reduction	<input type="text" value="\$100"/>
		Before NOV NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text" value="x"/>	
N/A	<input type="text"/>	<input type="text" value="(mark with x)"/>	
Notes	<input type="text" value="Compliance was achieved when the backflow prevention device was tested on September 30, 2008."/>		
Violation Subtotal			<input type="text" value="\$900"/>
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount <input type="text" value="\$111"/>	Violation Final Penalty Total <input type="text" value="\$1,650"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,650"/>

Economic Benefit Worksheet

Respondent City of Kerens
Case ID No. 36603
Reg. Ent. Reference No. RN101919553
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
<i>No commas or \$</i>							

Delayed Costs

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

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)	\$100	25-Jun-2007	30-Sep-2008	2.19	\$11	\$100	\$111

Notes for AVOIDED costs

Estimated cost for testing of the backflow prevention device. Date required is a year prior to the investigation date and final date is the date compliance was achieved.

Approx. Cost of Compliance

\$100

TOTAL

\$111

Screening Date 25-Sep-2008	Docket No. 2008-1486-MWD-E	PCW
Respondent City of Kerens		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36603		<small>PCW Revision June 12, 2008</small>
Reg. Ent. Reference No. RN101919553		
Media [Statute] Water Quality		
Enf. Coordinator Merrilee Hupp		
Violation Number <input type="text" value="3"/>		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010745001, Sludge Provisions	
Violation Description	Failed to timely submit the annual sludge reports for the monitoring periods ending July 31, 2005 and 2006 by September 1 of the corresponding year.	
	Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	x	
					Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)

Notes

Violation Subtotal

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 Kerens
Case ID No.: 36603
Reg. Ent. Reference No.: RN101919553
Media: Water Quality
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	\$250	1-Sep-2005	15-Mar-2009	3.54	\$44	n/a	\$44
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	1-Sep-2005	16-Sep-2008	3.04	\$8	n/a	\$8

Notes for DELAYED costs
 Estimated cost for the completion and submittal of annual sludge reports and to update operational guidance and conduct training on proper self-reporting procedures. Date required is the due date for the first report and final date is the date compliance is expected to be achieved.

Avoided Costs

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

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	\$300	TOTAL	\$52
-----------------------------------	-------	--------------	------

<p>Screening Date 25-Sep-2008 Respondent City of Kerens Case ID No. 36603 Reg. Ent. Reference No. RN101919553 Media [Statute] Water Quality Enf. Coordinator Merrilee Hupp Violation Number 4 Rule Cite(s) 30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 7</p>	<p>Docket No. 2008-1486-MWD-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 12, 2008</i></p>																							
<p>Violation Description Failed to report orally and submit noncompliance notifications for an unauthorized discharge. Specifically, the Respondent failed to report orally or by facsimile within 24 hours, and in writing within five working days of becoming aware of the unauthorized discharge which was documented during the investigation on June 25, 2008.</p>																								
<p>Base Penalty \$10,000</p>																								
<p>>> Environmental, Property and Human Health Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="3" style="width:10%; text-align: center; vertical-align: middle;">OR</td> <td colspan="3" style="text-align: center;">Harm</td> <td rowspan="3" style="width:10%;"></td> </tr> <tr> <td style="width:15%;"></td> <td style="width:15%; text-align: center;">Major</td> <td style="width:15%; text-align: center;">Moderate</td> <td style="width:15%; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td colspan="4"></td> <td style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> </table>		OR	Harm					Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>					Percent <input type="text" value="0%"/>
OR	Harm																							
			Major		Moderate		Minor																	
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>																			
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																				
				Percent <input type="text" value="0%"/>																				
<p>>> Programmatic Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:15%; text-align: center;">Major</td> <td style="width:15%; text-align: center;">Moderate</td> <td style="width:15%; text-align: center;">Minor</td> <td rowspan="2" style="width:10%;"></td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;"><input type="text" value="x"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td colspan="4"></td> <td style="text-align: right;">Percent <input type="text" value="10%"/></td> </tr> </table> <p>Matrix Notes 100% of the requirement was not met.</p>			Major	Moderate	Minor		Falsification	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>					Percent <input type="text" value="10%"/>									
	Major	Moderate	Minor																					
Falsification	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>																					
				Percent <input type="text" value="10%"/>																				
<p>Adjustment \$9,000</p>																								
<p>\$1,000</p>																								
<p>Violation Events</p> <p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="92"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="6" style="width:10%; text-align: center; vertical-align: middle;"><i>mark only one with an x</i></td> <td style="width:15%; text-align: center;">daily</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;"><input type="text" value="x"/></td> </tr> </table> <p style="text-align: right;">Violation Base Penalty <input type="text" value="\$1,000"/></p> <p style="text-align: center; border: 1px solid black; padding: 5px;">One single event is recommended.</p>		<i>mark only one with an x</i>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text" value="x"/>										
<i>mark only one with an x</i>	daily		<input type="text"/>																					
	monthly		<input type="text"/>																					
	quarterly		<input type="text"/>																					
	semiannual		<input type="text"/>																					
	annual		<input type="text"/>																					
	single event	<input type="text" value="x"/>																						
<p>Good Faith Efforts to Comply <input type="text" value="0.0%"/> Reduction <input type="text" value="\$0"/></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="2" style="width:10%;"></td> <td style="width:15%;"></td> <td style="width:15%; text-align: center;">Before NOV</td> <td style="width:15%; text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">N/A</td> <td style="text-align: center;"><input type="text" value="x"/></td> <td style="text-align: center;">(mark with x)</td> </tr> </table> <p>Notes The Respondent does not meet the good faith criteria for this violation.</p> <p style="text-align: right;">Violation Subtotal <input type="text" value="\$1,000"/></p>				Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>		Ordinary	<input type="text"/>	<input type="text"/>		N/A	<input type="text" value="x"/>	(mark with x)								
			Before NOV	NOV to EDPRP/Settlement Offer																				
	Extraordinary	<input type="text"/>	<input type="text"/>																					
	Ordinary	<input type="text"/>	<input type="text"/>																					
	N/A	<input type="text" value="x"/>	(mark with x)																					
<p>Economic Benefit (EB) for this violation Statutory Limit Test</p> <p>Estimated EB Amount <input type="text" value="\$11"/> Violation Final Penalty Total <input type="text" value="\$1,750"/></p> <p style="text-align: right;">This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,750"/></p>																								

Economic Benefit Worksheet

Respondent: City of Kerens
Case ID No.: 36603
Reg. Ent. Reference No.: RN101919553
Media: Water Quality
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$300	25-Jun-2008	15-Mar-2009	0.72	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost for preparation and submittal of a written notice as well as other administrative costs associated with oral notification of the unauthorized discharge and to update operational guidance and conduct training on proper reporting procedures. Date required is the date the discharge was documented and final date is the date compliance is expected to be achieved.

Avoided Costs

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

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

\$300

TOTAL

\$11

Screening Date 25-Sep-2008 **Docket No.** 2008-1486-MWD-E **PCW**
Respondent City of Kerens *Policy Revision 2 (September 2002)*
Case ID No. 36603 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101919553
Media [Statute] Water Quality
Enf. Coordinator Merrilee Hupp
Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 5
Violation Description Failed to calibrate all flow measuring devices at least annually.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes
 Failure to calibrate a flow measuring device for a 0.21 million gallon per day permitted wastewater treatment facility could result in human health or the environment being exposed to significant amounts of pollutants which do 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 92 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the June 25, 2008 investigation date to September 25, 2008 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Reduction	
	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 \$1,096 Violation Final Penalty Total \$1,750

This violation Final Assessed Penalty (adjusted for limits) \$1,750

Economic Benefit Worksheet

Respondent City of Kerens
Case ID No. 36603
Reg. Ent. Reference No. RN101919553
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

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)	\$1,000	25-Jun-2007	25-Jun-2008	1.92	\$96	\$1,000	\$1,096

Notes for AVOIDED costs

Estimated cost of calibrating a flow meter. Date required is twelve months prior to the investigation date and final date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,096

<p>Screening Date 25-Sep-2008 Respondent City of Kerens Case ID No. 36603 Reg. Ent. Reference No. RN101919553 Media [Statute] Water Quality Enf. Coordinator Merrilee Hupp Violation Number 6 Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0010745001, Effluent Limitations and Monitoring Requirements No. 1</p>	<p>Docket No. 2008-1486-MWD-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 12, 2008</i></p>																				
<p>Violation Description Failed to comply with permitted effluent limitations as shown in the Effluent Violation Table.</p>																					
<p>Base Penalty \$10,000</p>																					
<p>>> Environmental, Property and Human Health Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="3" style="width:10%; text-align: center; vertical-align: middle;">OR</td> <td style="width:15%;"></td> <td colspan="3" style="text-align: center;">Harm</td> <td rowspan="3" style="width:15%;"></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> </tr> <tr> <td></td> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> <td style="text-align: right;">Percent <input type="text" value="10%"/></td> </tr> </table>		OR		Harm				Release	Major	Moderate	Minor	Actual			x		Potential				Percent <input type="text" value="10%"/>
OR			Harm																		
	Release		Major	Moderate	Minor																
	Actual			x																	
	Potential				Percent <input type="text" value="10%"/>																
<p>>> Programmatic Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td rowspan="2" style="width:15%;"></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> </table> <p>Matrix Notes 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 environmental receptors as a result of the violation.</p> <p style="text-align: right;">Adjustment \$9,000</p>			Falsification	Major	Moderate	Minor												Percent <input type="text" value="0%"/>			
	Falsification	Major	Moderate	Minor																	
					Percent <input type="text" value="0%"/>																
<p>\$1,000</p>																					
<p>Violation Events</p> <p>Number of Violation Events <input type="text" value="2"/> <input type="text" value="61"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="6" style="width:10%; text-align: center; vertical-align: middle;"><i>mark only one with an x</i></td> <td style="width:15%;">daily</td> <td><input type="text"/></td> </tr> <tr> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td>quarterly</td> <td style="text-align: center;">x</td> </tr> <tr> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td>single event</td> <td><input type="text"/></td> </tr> </table> <p style="text-align: right;">Violation Base Penalty \$2,000</p> <p style="text-align: center; border: 1px solid black; padding: 5px;">Two quarterly events are recommended.</p>		<i>mark only one with an x</i>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>							
<i>mark only one with an x</i>	daily		<input type="text"/>																		
	monthly		<input type="text"/>																		
	quarterly		x																		
	semiannual		<input type="text"/>																		
	annual		<input type="text"/>																		
	single event	<input type="text"/>																			
<p>Good Faith Efforts to Comply <input type="text" value="0.0%"/> Reduction \$0</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:15%;"></td> <td style="width:15%; text-align: center;">Before NOV</td> <td style="width:15%; text-align: center;">NOV to EDRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td colspan="2" style="text-align: center;">(mark with x)</td> </tr> </table> <p>Notes The Respondent does not meet the good faith criteria for this violation.</p> <p style="text-align: right;">Violation Subtotal \$2,000</p>				Before NOV	NOV to EDRP/Settlement Offer	Extraordinary		<input type="text"/>	<input type="text"/>	Ordinary		<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)					
		Before NOV	NOV to EDRP/Settlement Offer																		
Extraordinary		<input type="text"/>	<input type="text"/>																		
Ordinary		<input type="text"/>	<input type="text"/>																		
N/A	x	(mark with x)																			
<p>Economic Benefit (EB) for this violation Statutory Limit Test</p> <p>Estimated EB Amount <input type="text" value="\$92"/> Violation Final Penalty Total <input type="text" value="\$3,500"/></p> <p style="text-align: right;">This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,500"/></p>																					

Economic Benefit Worksheet

Respondent City of Kerens
Case ID No. 36603
Reg. Ent. Reference No. RN101919553
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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)	\$1,000	30-Sep-2007	31-Jul-2009	1.84	\$92	n/a	\$92

Notes for DELAYED costs

Estimated cost for additional aeration to bring effluent into limits of permit. Date required is the first documented noncompliance and the final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$1,000

TOTAL

\$92

Screening Date 25-Sep-2008	Docket No. 2008-1486-MWD-E	PCW	
Respondent City of Kerens		<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36603		<small>PCW Revision June 12, 2008</small>	
Reg. Ent. Reference No. RN101919553			
Media [Statute] Water Quality			
Enf. Coordinator Merrilee Hupp			
Violation Number <input type="text" value="7"/>			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0010745001, Operational Requirements No. 1		
Violation Description	Failed to operate and maintain the treatment units of the Facility. Specifically, the sludge drying beds contained an excessive amount of vegetation, the secondary aeration basin and the final clarifier had floating grease and solids, and the wastewater in the equalization pond was not being returned back to the Facility for treatment.		
	Base Penalty	<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text" value="x"/>
			Percent <input type="text" value="10%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
	Adjustment	<input type="text" value="\$9,000"/>	
			<input type="text" value="\$1,000"/>
Violation Events			
	<input type="text" value="1"/>	<input type="text" value="92"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
			Violation Base Penalty <input type="text" value="\$1,000"/>
One quarterly event is recommended from the June 25, 2008 investigation to the September 25, 2008 screening date.			
Good Faith Efforts to Comply		10.0% Reduction	<input type="text" value="\$100"/>
		Before NOV NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text" value="x"/>	
N/A	<input type="text"/>	(mark with x)	
Notes	Documentation of compliance was received on September 29, 2008.		
	Violation Subtotal	<input type="text" value="\$900"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$7"/>	Violation Final Penalty Total	<input type="text" value="\$1,650"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,650"/>

Economic Benefit Worksheet

Respondent: City of Kerens
Case ID No.: 36603
Reg. Ent. Reference No.: RN101919553
Media: Water Quality
Violation No.: 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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	\$500	25-Jun-2008	29-Sep-2008	0.26	\$7	n/a	\$7
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost of labor and disposal associated with the removal of grease and excess solids from the treatment units, the removal of excess vegetation from the sludge drying beds, and the return of wastewater from the equalization basin to the treatment units of the Facility. Date required is the investigation date and final date is the date compliance was achieved.						
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
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				\$500	TOTAL		\$7

Screening Date 25-Sep-2008 Respondent City of Kerens Case ID No. 36603 Reg. Ent. Reference No. RN101919553 Media [Statute] Water Quality Enf. Coordinator Merrilee Hupp Violation Number 8 Rule Cite(s) 30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 7.c Violation Description Failed to submit noncompliance notifications for effluent violations more than 40 percent above the permitted limitation. Specifically, the Respondent failed to submit a noncompliance notification in writing within five working days of becoming aware of the daily average ammonia-nitrogen effluent violations for the month of September 2007 which were over 40 percent of the permitted limits.	Docket No. 2008-1486-MWD-E <div style="text-align: right;">PCW <small>Policy Revision 2 (September 2002) PCW Revision June 12, 2008</small></div>
Base Penalty <input type="text" value="\$10,000"/>	

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

	<input type="text" value="1"/>		<input type="text" value="356"/>	Number of violation days
<i>mark only one with an x</i>	daily <input type="text"/> monthly <input type="text"/> quarterly <input type="text"/> semiannual <input type="text"/> annual <input type="text"/> single event <input checked="" type="checkbox"/>			
				Violation Base Penalty <input type="text" value="\$1,000"/>

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)	
Notes		<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		

Violation Subtotal

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

Estimated EB Amount <input type="text" value="\$4"/>		Violation Final Penalty Total <input type="text" value="\$1,750"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,750"/>	

Economic Benefit Worksheet

Respondent: City of Kerens
Case ID No.: 36603
Reg. Ent. Reference No.: RN101919553
Media: Water Quality
Violation No.: 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	5-Oct-2007	15-Mar-2009	1.44	\$4	n/a	\$4

Notes for DELAYED costs: Estimated cost for completing and submitting a noncompliance notice for 40% or more effluent excursions. Date required is the last possible due date for the notice following the September 2007 excursion and the final date is the date compliance is expected to be achieved.

Avoided Costs

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

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

TOTAL \$4

Screening Date 25-Sep-2008 Respondent City of Kerens Case ID No. 36603 Reg. Ent. Reference No. RN101919553 Media [Statute] Water Quality Enf. Coordinator Merrilee Hupp Violation Number 9 Rule Cite(s) 30 Tex. Admin. Code §§ 319.6 and 319.11 and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 2.	Docket No. 2008-1486-MWD-E <div style="text-align: right;">PCW</div> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 12, 2008</i>																								
Violation Description Failed to utilize the quality assurance requirements and effluent analysis methods required. Specifically, quality control, in the form of either a standard or a duplicate sample being analyzed with each chlorine sample, and manganese correction during the chlorine analyses were not being performed.																									
Base Penalty \$10,000																									
>> Environmental, Property and Human Health Matrix																									
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td></td> <th>Release</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td></td> <td>Actual</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>Potential</td> <td></td> <td></td> <td style="text-align: center;">x</td> <td>Percent 5%</td> </tr> </table>			Harm					Release	Major	Moderate	Minor			Actual						Potential			x	Percent 5%
		Harm																							
	Release	Major	Moderate	Minor																					
	Actual																								
	Potential			x	Percent 5%																				
>> Programmatic Matrix																									
Matrix Notes	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td colspan="2"></td> <td></td> <td></td> <td></td> <td></td> <td>Percent 0%</td> </tr> </table> <p style="text-align: center;">Human health or the environment would or could be exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.</p>			Falsification	Major	Moderate	Minor								Percent 0%										
		Falsification	Major	Moderate	Minor																				
						Percent 0%																			
Adjustment \$9,500																									
\$500																									
Violation Events																									
Number of Violation Events <input type="text" value="1"/> <input type="text" value="92"/> Number of violation days																									
mark only one with an x	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x												
daily																									
monthly																									
quarterly																									
semiannual																									
annual																									
single event	x																								
Violation Base Penalty \$500																									
One single event is recommended based upon the June 25, 2008 investigation date.																									
Good Faith Efforts to Comply																									
10.0% Reduction																									
\$50																									
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th>Before NOV</th> <th>NOV to EDRP/Settlement Offer</th> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td style="text-align: center;">x</td> </tr> <tr> <td>N/A</td> <td></td> <td>(mark with x)</td> </tr> </table>			Before NOV	NOV to EDRP/Settlement Offer	Extraordinary			Ordinary		x	N/A		(mark with x)												
	Before NOV	NOV to EDRP/Settlement Offer																							
Extraordinary																									
Ordinary		x																							
N/A		(mark with x)																							
Notes	The Respondent achieved compliance on September 30, 2008 by following the required procedures.																								
Violation Subtotal \$450																									
Economic Benefit (EB) for this violation																									
Statutory Limit Test																									
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$825"/>																								
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$825"/>																									

Economic Benefit Worksheet

Respondent: City of Kerens
Case ID No.: 36603
Reg. Ent. Reference No.: RN101919553
Media: Water Quality
Violation No.: 9

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	25-Jun-2008	30-Sep-2008	0.27	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to perform manganese correction and quality control tests on chlorine samples as required. Date required is the investigation date and final date is the date compliance was achieved.

Avoided Costs

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

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

TOTAL

\$1

City of Kerens
 Docket No. 2008-1486-MWD-E
 RN101919553

Effluent Violation Table

Month/Year	Min. DO Conc. (mg/L)	Min. Cl Conc. (mg/L)	Daily Avg. NH ₃ -N Conc. (mg/L)	Single Grab NH ₃ -N Conc. (mg/L)	Daily Avg. CBOD ₅ Loading (lbs/day)	Daily Avg. CBOD ₅ Conc. (mg/L)
Permit Limit	4.0	1.0	3	15	10	35
09/30/07	3.2	c	6.2	22.4	c	c
11/30/07	c	c	c	c	13	40
6/25/08*	c	0.69	c	c	c	c

ammonia-nitrogen: NH₃-N
 five-day carbonaceous biochemical oxygen demand: CBOD₅
 compliant: c
 chlorine residual: Cl
 minimum: min
 *grab sample collected by investigator

pounds per day: lbs/day
 milligrams per liter: mg/L
 dissolved oxygen: DO
 average: avg.

Comp History Report

Customer/Respondent/Owner-Operator: CN800605349 City of Kerens Classification: AVERAGE Rating: 2.92
Regulated Entity: RN101919553 CITY OF KERENS Classification: AVERAGE Site Rating: 2.65
ID Number(s): WASTEWATER PERMIT WQ0010745001
WASTEWATER PERMIT TPDES0023027
WASTEWATER PERMIT TX0023027
WASTEWATER LICENSING LICENSE WQ0010745001
Location: LOCATED APPROX 0.5 MI SW OF THE CITY OF KERENS
ADJACENT TO FM 633 IN NAVARRO COUNTY TX
Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: September 30, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 30, 2003 to September 30, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee Hupp Phone: 512-239-4490

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: 09/21/2007 ADMINORDER 2004-0623-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: WQ10745-001 PERMIT

Description: Failure to maintain the collection system to prevent repeat overflows from stormwater infiltration and inflow.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)

30 TAC Chapter 305, SubChapter F 305.125(9)

Rqmt Prov: WQ10745-001 PERMIT

Description: Failure to report the sewer overflow that occurred on February 6, 2004.

Effective Date: 08/15/2008 ADMINORDER 2005-1166-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Permit Conditions No. 2 g PERMIT

Description: Failure to prevent sewer overflows at the Kerens Apartments.

- 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 10/28/2003 (298995)

2 11/18/2003 (298997)

3 12/15/2003 (250377)

4 12/18/2003 (299001)

5 01/29/2004 (299004)

6 02/27/2004 (298970)

7 03/17/2004 (298973)

8 04/22/2004 (298974)
9 05/24/2004 (298977)
10 07/01/2004 (353569)
11 07/26/2004 (353570)
12 08/24/2004 (353571)
13 09/23/2004 (353572)
14 10/15/2004 (147322)
15 10/19/2004 (353573)
16 11/29/2004 (353574)
17 01/03/2005 (382685)
18 01/20/2005 (382686)
19 02/21/2005 (382684)
20 03/15/2005 (420487)
21 05/03/2005 (420488)
22 05/26/2005 (420489)
23 06/22/2005 (420490)
24 08/05/2005 (441532)
25 08/22/2005 (441533)
26 11/14/2005 (469835)
27 11/14/2005 (469836)
28 11/28/2005 (469837)
29 12/30/2005 (469838)
30 01/30/2006 (469839)
31 04/28/2006 (469832)
32 04/28/2006 (469833)
33 04/28/2006 (469834)
34 05/24/2006 (499078)
35 07/09/2006 (499079)
36 07/25/2006 (521125)
37 08/22/2006 (521126)
38 09/19/2006 (577280)
39 10/19/2006 (577281)
40 11/27/2006 (517066)
41 11/28/2006 (577282)
42 12/20/2006 (577283)
43 02/05/2007 (577284)
44 02/23/2007 (577274)
45 03/21/2007 (577275)
46 04/25/2007 (577276)
47 06/12/2007 (577277)
48 06/20/2007 (577278)
49 07/23/2007 (577279)
50 09/17/2007 (602143)
51 09/28/2007 (602144)
52 10/19/2007 (620255)
53 11/19/2007 (620256)
54 01/02/2008 (672610)
55 01/31/2008 (672611)
56 02/21/2008 (672608)
57 03/18/2008 (672609)
58 04/22/2008 (690586)
59 06/04/2008 (690587)
60 07/09/2008 (685387)
61 08/20/2008 (686582)

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

Date: 11/30/2003 (299001)

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: 07/31/2004 (353571)

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: 08/31/2004 (353572)

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: 11/28/2006 (517066)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to prevent infiltration/inflow from adversely affecting the collection system and/or the WWTP.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)

30 TAC Chapter 317 317.7(i)

Description: Failure to have the RPZ backflow prevention device is the device tested annually by a certified technician.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)

30 TAC Chapter 305, SubChapter F 305.125(11)(C)

Description: Failure to submit the annual sludge reports for 2005 and 2006, as required by the permit.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)

30 TAC Chapter 305, SubChapter F 305.125(5)

TWC Chapter 26 26.121

TWC Chapter 26 26.121(a)

TWC Chapter 26 26.121(a)(1)

TWC Chapter 26 26.121(a)(2)

TWC Chapter 26 26.121(a)(3)

TWC Chapter 26 26.121(b)

TWC Chapter 26 26.121(c)

TWC Chapter 26 26.121(d)

TWC Chapter 26 26.121(e)

Description: Failure to prevent an unauthorized discharge at the WWTP.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to have the secondary flow measuring device calibrated annually.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to comply with the minimum chlorine limit of 1.0 mg/L.

Date: 09/30/2007 (620255)

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: 11/30/2007 (672610)

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: 04/30/2008 (690587)

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

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 KERENS
RN101919553

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1486-MWD-E

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

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment facility located approximately one half mile southwest of Kerens, adjacent to Farm-to-Market Road 633 in Navarro County, Texas (the "Facility").

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on June 25, 2008, TCEQ staff documented the following:
 - a. Debris characteristic of an unauthorized discharge from the manhole prior to the headworks of the Facility;
 - b. A failure to test the reduced-pressure principle backflow prevention device at the Facility within the twelve months prior to the investigation;
 - c. The annual sludge reports for the monitoring periods ending 2005 and 2006 had not been submitted to the TCEQ by September 1 of the corresponding year;
 - d. No oral or written notice had been received by TCEQ for the unauthorized discharge which was documented during the investigation;
 - e. The new secondary flow measuring device had not been calibrated within the twelve months since its installation in February 2007;
 - f. A grab sample collected during the investigation indicated a total chlorine residual excursion, and a review of discharge monitoring report ("DMR") data from January 2007 through March 2008 revealed effluent excursions as shown in the table below:

Month/Year	Min. DO Conc. (mg/L)	Min. Cl Conc. (mg/L)	Daily Avg. NH ₃ -N Conc. (mg/L)	Single Grab NH ₃ -N Conc. (mg/L)	Daily Avg. CBOD ₅ Loading (lbs/day)	Daily Avg. CBOD ₅ Conc. (mg/L)
Permit Limit	4.0	1.0	3	15	10	35
09/30/07	3.2	c	6.2	22.4	c	c
11/30/07	c	c	c	c	13	40
6/25/08*	c	0.69	c	c	c	c

ammonia-nitrogen: NH₃-N

five-day carbonaceous biochemical oxygen demand: CBOD₅

compliant: c

chlorine residual: Cl average: avg.

*grab sample collected by investigator

pounds per day: lbs/day

milligrams per liter: mg/L

dissolved oxygen: DO

minimum: min.

- g. An excessive amount of vegetation growing in the sludge drying beds;
- h. The secondary aeration basin and the final clarifier had floating grease and solids, and the wastewater in the equalization pond was not being returned back to the Facility for treatment;

- i. A noncompliance notification was not submitted for the month of September 2007 when the daily average ammonia-nitrogen effluent violations exceeded the permit limits by at least 40 percent of the permitted limits; and
 - j. Quality control, in the form of either a standard or a duplicate sample being analyzed with each chlorine sample, and manganese correction during the chlorine analyses were not being performed.
4. The City received notice of the violations on August 25, 2008.
 5. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. On September 16, 2008, submitted the annual sludge reports for the monitoring periods ending July 31, 2005 and 2006;
 - b. By September 29, 2008, removed the excess vegetation from the sludge drying beds, removed the floating grease and solids from the secondary aeration basin and the final clarifier, and had returned the wastewater in the equalization pond back to the treatment units of the Facility;
 - c. On September 30, 2008, had the reduced-pressure principle backflow prevention device tested by a certified technician;
 - d. On September 30, 2008, began implementing the required quality assurance procedures and methods required for sample analysis of total chlorine residual; and
 - e. On November 4, 2008, provided documentation for the completed clean-up of the unauthorized discharge.

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.a., the City failed to prevent an unauthorized discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010745001, Permit Conditions No. 2.g.
3. As evidenced by Findings of Fact No. 3.b., the City failed to have the reduced-pressure principle backflow prevention device tested annually by a certified technician, in violation of 30 TEX. ADMIN. CODE § 217.330(b) [formerly, §§ 317.7(i) and 317.4(a)(8)].

4. As evidenced by Findings of Fact No. 3.c., the City failed to timely submit the annual sludge reports, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010745001, Sludge Provisions.
5. As evidenced by Findings of Fact No. 3.d., the City failed to report orally and submit noncompliance notifications for an unauthorized discharge, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 7.
6. As evidenced by Findings of Fact No. 3.e, the City failed to calibrate all flow measuring devices at least annually, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 5.
7. As evidenced by Findings of Fact No. 3.f, the City failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010745001, Effluent Limitations and Monitoring Requirements No. 1.
8. As evidenced by Findings of Fact Nos. 3.g and 3.h, the City failed to operate and maintain the treatment units of the Facility, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0010745001, Operational Requirements No. 1.
9. As evidenced by Findings of Fact No. 3.i, the City failed to submit noncompliance notifications for effluent violations more than 40 percent above the permitted limitation, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 7.c.
10. As evidenced by Findings of Fact No. 3.j, the City failed to utilize the quality assurance requirements and effluent analysis methods required, in violation of 30 TEX. ADMIN. CODE §§ 319.6 and 319.11 and TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 2.
11. 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.
12. An administrative penalty in the amount of Sixteen Thousand Seven Hundred Twenty-Five Dollars (\$16,725) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Sixteen Thousand Seven Hundred Twenty-Five Dollars (\$16,725) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Sixteen Thousand Seven Hundred Twenty-Five Dollars (\$16,725) as set forth in Section II, Paragraph 12 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 Kerens, Docket No. 2008-1486-MWD-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7:067. As set forth in Section II, Paragraph 12 above, Sixteen Thousand Seven Hundred Twenty-Five Dollars (\$16,725) 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 City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of annual sludge reports; and to ensure that written reports for unauthorized discharges and effluent violations which deviate by more than 40% from the permitted limit are properly submitted to the TCEQ, in accordance with TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements Nos. 1 and 7;
 - b. Within 30 days after the effective date of this Agreed Order, calibrate all automatic flow measuring devices, as required by TPDES Permit No. WQ0010745001, Monitoring and Reporting Requirements No. 5;
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the certification language as described in 3.d. below;

- d. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010745001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

- e. Within 120 days after the effective date of this Agreed Order, submit to TCEQ an engineering study, prepared by a Texas registered professional engineer, identifying the significant sources of inflow/infiltration (“I/I”) into the collection system and recommending corrective actions necessary to mitigate the effects of I/I;
- f. Within 180 days after the effective date of this Agreed Order, develop and begin implementing a plan and schedule for mitigating the effects of I/I based upon the results of the engineering study. The plan shall be prepared by a Texas registered professional engineer and shall include a schedule for specific corrective actions, with a completion date of December 31, 2010 included in the schedule. The plan shall be submitted to the addresses in Ordering Provision No. 3.d. above;
- g. Within 240 days after the effective date of this Agreed Order, and by January 31 and July 31 of each year thereafter until December 31, 2010, the City shall submit a progress

report to the addresses in 3.d. above, describing the actions taken since the implementation of the I/I plan described within Ordering Provision No. 3.f. above;

- h. Within 730 days of the effective date of the Commission Order or by December 31, 2010, whichever is earlier, the City shall complete all phases of the plan identified in Ordering Provision No. 3.f. above; and
 - i. Within 745 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.h., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.h. The certification shall be notarized by a State of Texas Notary Public and include the certification language as described in 3.d. above.
4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
 5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
 6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
 7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
 8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 9. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

10. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sredlin
For the Executive Director

4/13/2009
Date

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

C. Scott
Signature

2/4/09
Date

CINDY SCOTT
Name (Printed or typed)
Authorized Representative of
City of Kerens

City Secretary
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: 2008-1486-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Kerens
Penalty Amount:	Sixteen Thousand Seven Hundred Twenty-Five Dollars (\$16,725)
SEP Offset Amount:	Sixteen Thousand Seven Hundred Twenty-Five Dollars (\$16,725)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Navarro 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 two one-day events for the collection, recycling, or proper disposal of tires, batteries, electronics, and lawn clippings. The Respondent shall offer a designated drop-off location where the public can drop off materials for disposal or recycling at no cost to the citizens. The events will be advertised in a local newspaper to increase public awareness of and participation in the events.

The Respondent shall ensure that the events:

- are advertised to the public;
- occur on a weekend during daylight hours;
- offer to the public a convenient drop-off location; and
- include recycling of electronics and vegetative debris

The Respondent shall collect, transport, dispose of, or recycle the collected materials. SEP funds will be used for heavy equipment such as roll-off bins, vehicles, and trailers, as well as overtime labor of employees where appropriate, public announcement of the event, and disposal and recycling costs.

The Respondent shall perform these events 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 events and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the events.

The Respondent certifies that there is no prior commitment of the SEP funds to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The recycling portion of the events will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of wastes that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Collection of waste tires will help prevent illegal tire dumps and help rid the community of the attractive nuisance that can harbor vermin, as well as mosquitoes that can carry West Nile virus. Recycling and proper disposal of tires helps avoid release of harmful chemicals into the atmosphere that could result from fires at illegal tire dump sites.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. The Respondent understands that it may be required to spend more than the offset amount to complete the project.

2. Performance Schedule

The Respondent shall complete both events 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 with the time required above.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, timesheets signed by a supervisor, and any other verifying documentation;
2. A summary of the total amount of costs incurred;

City of Kerens

Agreed Order Docket 2008-1486-MWD-E B Attachment A

3. Number of tires, appliances, batteries, and pounds of electronic waste;
4. Manifests showing proper disposal of wastes or recycling of materials;
5. Photographs of the project;
6. A statement of quantifiable environmental benefits; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount. The Respondent agrees that it will contribute any monetary shortages in the SEP Offset amount to TCEQ within 90 days of the expiration of time to complete the SEP or within 90 days of completion of the projects, whichever occurs first.

In the event that the Respondent does not spend the required SEP Offset Amount on the projects, the Respondent shall remit the remaining balance to TCEQ. The Respondent shall include the docket number of this Agreed Order and a note with the payment, explaining that the payment is for a SEP reimbursement. The check shall be made payable to the Texas Commission on Environmental Quality and shall be mailed 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 funds identified in this Agreed Order have 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.