

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0044-MWD-E **TCEQ ID:** RN101920148 **CASE NO.:** 37002

**RESPONDENT NAME:** City of Cotulla

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Cotulla WWTF, located approximately 1.1 miles south of the intersection of State Highway 97 and State Highway 624 and 1.1 miles southeast of the intersection of U.S. Highway-Business 81 and State Highway 97, La Salle County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 1, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886;  Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Joe R. Lozano, Mayor, City of Cotulla, 117 North Front, Cotulla, Texas 78014  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 23, 2008 and January 9, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 25, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and a record review.</p> <p><b>WATER</b></p> <p>1) Failure to prevent unauthorized discharges. Specifically, the Respondent had unauthorized discharges of raw sewage on May 22, 2007 (400 gallons), October 17, 2007 (400 gallons), November 4, 2007 (6000 gallons), September 6, 2008 (5000 gallons), September 9, 2008 (750 gallons), September 18, 2008 (500 gallons), September 29, 2008 (350 gallons) and October 16, 2008 (800 gallons) [TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010153001, Permit Condition No.2.g.].</p> <p>2) Failure to make readily available for inspection the temperature logs for the thermometer in the refrigerator that holds samples [30 TEX. ADMIN. CODE § 319.7(c) and TPDES Permit No. WQ0010153001, Monitoring and Reporting Requirements No. 3].</p> <p>3) Failure to pay all outstanding Public Health Service fees and late fees for TCEQ Financial Administration Account No. 91420001 for Fiscal Year 2009 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. HEALTH &amp; SAFETY CODE § 341.041].</p>	<p><b>Total Assessed:</b> \$25,166</p> <p><b>Total Deferred:</b> \$5,033  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$20,133</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Removed two burned out pumps, replaced one pump, and repaired the burned out fuse on the light pole on May 22, 2007;</p> <p>b. Unclogged pumps, cleaned and reset the automatic switch on October 17, 2007;</p> <p>c. Pulled the pump and reset the automatic switch on November 4, 2007;</p> <p>d. Installed a pulley and new belts on the pump on September 6, 2008;</p> <p>e. Removed rags from the pump and reset the breaker on September 9, 2008;</p> <p>f. Installed a new light fuse on September 18, 2008;</p> <p>g. Removed rags from the pump on September 29, 2008;</p> <p>h. Reset the breakers on the electrical panel on October 16, 2008; and</p> <p>i. Submitted copies of the temperature logs on November 10, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest for Financial Administration Account No. 91420001;</p> <p>b. Within 60 days after the effective date of this Agreed Order, evaluate and update</p>

		<p>the current Operation and Maintenance Plan to ensure that the plan includes regular inspections of the Facility's equipment, maintaining the pumps in good operating condition, unclogging lines on a routine basis, replacing light fuses as needed and training staff on the proper maintenance of the collection system; and</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and 2.b.</p>
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Additional ID No(s): WQ0010153001



Attachment A  
Docket Number: 2009-0044-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Cotulla</b>
<b>Payable Penalty Amount:</b>	<b>Twenty Thousand One Hundred Thirty-Three Dollars (\$20,133)</b>
<b>SEP Amount:</b>	<b>Twenty Thousand One Hundred Thirty-Three Dollars (\$20,133)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Unauthorized Trash Dump Clean-Up</b>
<b>Location of SEP:</b>	<b>La Salle County</b>

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

**1. Project Description**

**A. Project**

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.



C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP 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 Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

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



**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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





Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	1-Dec-2008			
	<b>PCW</b>	9-Jan-2009	<b>Screening</b>	9-Jan-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Cotulla
<b>Reg. Ent. Ref. No.</b>	RN101920148
<b>Facility/Site Region</b>	16-Laredo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37002	<b>No. of Violations</b>	3
<b>Docket No.</b>	2009-0044-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$8,100
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	211.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$17,091
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Notes

The Respondent received two previous NOVs for same or similar violations, three NOVs for non-similar violations and self-reported 30 months of effluent violations. Also, the Respondent received one Findings Order and one 1660-Agreed Order containing denial of liability.

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

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$25
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$354
Approx. Cost of Compliance	\$3,020

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$25,166
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$25,166
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$25,166
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$5,033
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$20,133
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**Screening Date** 9-Jan-2009

**Docket No.** 2009-0044-MWD-E

**PCW**

**Respondent** City of Cotulla

Policy Revision 2 (September 2002)

**Case ID No.** 37002

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101920148

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	32	160%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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)** 211%

>> **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 two previous NOVs for same or similar violations, three NOVs for non-similar violations and self-reported 30 months of effluent violations. Also, the Respondent received one Findings Order and one 1660-Agreed Order containing denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 211%

<p><b>Screening Date</b> 9-Jan-2009  <b>Respondent</b> City of Cotulla  <b>Case ID No.</b> 37002  <b>Reg. Ent. Reference No.</b> RN101920148  <b>Media [Statute]</b> Water Quality  <b>Enf. Coordinator</b> Cheryl Thompson  <b>Violation Number</b> <input type="text" value="1"/>  <b>Rule Cite(s)</b> <input 2.g."="" condition="" no.="" permit="" tpdes")="" type="text" value="Tex. Water Code § 26.121(a) and Texas Pollutant Discharge Elimination System (" wq0010153001,=""/>  <b>Violation Description</b> <input type="text" value="Failed to prevent unauthorized discharges from the collection system. Specifically, the Respondent had unauthorized discharges of raw sewage on May 22, 2007 (400 gallons), October 17, 2007 (400 gallons), November 4, 2007 (6000 gallons), September 6, 2008 (5000 gallons), September 9, 2008 (750 gallons), September 18, 2008 (500 gallons), September 29, 2008 (350 gallons) and October 16, 2008 (800 gallons). See attached table."/></p>	<p><b>Docket No.</b> 2009-0044-MWD-E  <b>PCW</b>  <i>Policy Revision 2 (September 2002)</i>  <i>PCW Revision October 30, 2008</i></p>																					
<b>Base Penalty</b> <input type="text" value="\$10,000"/>																						
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																						
<p><b>OR</b></p> <table border="1" style="margin-left: 20px;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> </tr> <tr> <td></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: right;"><b>Release</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: right;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> <p style="margin-left: 20px;"><b>Percent</b> <input type="text" value="10%"/></p>		<b>Harm</b>				Major	Moderate	Minor	<b>Release</b>				Actual	<input type="text"/>	<input type="text"/>	x	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
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<b>&gt;&gt; Programmatic Matrix</b>																						
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<b>Violation Events</b>																						
<p>Number of Violation Events <input type="text" value="8"/>      <input type="text" value="153"/> Number of violation days</p> <table border="1" style="margin-left: 20px;"> <tr> <td style="text-align: right;"><i>mark only one with an x</i></td> <td>daily</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>weekly</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>quarterly</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>single event</td> <td style="text-align: center;">x</td> </tr> </table> <p style="margin-left: 20px;"><b>Violation Base Penalty</b> <input type="text" value="\$8,000"/></p>	<i>mark only one with an x</i>	daily	<input type="text"/>		weekly	<input type="text"/>		monthly	<input type="text"/>		quarterly	<input type="text"/>		semiannual	<input type="text"/>		annual	<input type="text"/>		single event	x	
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Eight single events are recommended.																						
<b>Good Faith Efforts to Comply</b>																						
<p style="text-align: right;">0.0% Reduction <input type="text" value="\$0"/></p> <table border="1" style="margin-left: 20px;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: right;"><b>Extraordinary</b></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: right;"><b>Ordinary</b></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: right;">N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table> <p><b>Notes</b> <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/></p>		Before NOV	NOV to EDPRP/Settlement Offer	<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>	<b>Ordinary</b>	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)										
	Before NOV	NOV to EDPRP/Settlement Offer																				
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>																				
<b>Ordinary</b>	<input type="text"/>	<input type="text"/>																				
N/A	x	(mark with x)																				
<b>Violation Subtotal</b> <input type="text" value="\$8,000"/>																						
<b>Economic Benefit (EB) for this violation</b>																						
<p><b>Estimated EB Amount</b> <input type="text" value="\$354"/></p>	<p><b>Statutory Limit Test</b></p> <p><b>Violation Final Penalty Total</b> <input type="text" value="\$24,880"/></p> <p><b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$24,880"/></p>																					

## Economic Benefit Worksheet

**Respondent:** City of Cotulla  
**Case ID No.:** 37002  
**Reg. Ent. Reference No.:** RN101920148  
**Media:** Water Quality  
**Violation No.:** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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)	\$3,000	22-May-2007	30-Sep-2009	2.36	\$354	n/a	\$354

**Notes for DELAYED costs**

Estimated cost to establish and implement an Operations and Maintenance Plan for the collection system. The cost includes regular inspections of the Facility's equipment, maintaining the pumps in good operating condition, unclogging lines on a routine basis and replacing light fuses as needed. Date required is the date of the first unauthorized discharge. Final date is the projected 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

\$3,000

**TOTAL**

\$354

<b>Screening Date</b> 9-Jan-2009	<b>Docket No.</b> 2009-0044-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Cotulla	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 37002	<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101920148		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Cheryl Thompson		
<b>Violation Number</b> <input type="text" value="2"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 319.7(c ) and TPDES Permit No. WQ0010153001, Monitoring and Reporting Requirements No. 3	
<b>Violation Description</b>	Failed to make readily available for inspection the temperature logs for the thermometer in the refrigerator that holds samples.	

**Base Penalty**

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

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

**>> Programmatic Matrix**

	Major	Moderate	Minor	
<b>Falsification</b>	<input type="text"/>	<input type="text"/>	x	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <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"/>
weekly	<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
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>
<b>Ordinary</b>	x	<input type="text"/>
N/A	(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 Cotulla  
**Case ID No.:** 37002  
**Reg. Ent. Reference No.:** RN101920148  
**Media:** Water Quality  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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	\$20	23-Oct-2008	10-Nov-2008	0.05	\$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 ensure that the temperature logs are readily available upon request. Date required is date of investigation. Final date is 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

\$20

**TOTAL**

\$0

<p><b>Screening Date</b> 9-Jan-2009</p> <p><b>Respondent</b> City of Cotulla</p> <p><b>Case ID No.</b> 37002</p> <p><b>Reg. Ent. Reference No.</b> RN101920148</p> <p><b>Media [Statute]</b> Water Quality</p> <p><b>Enf. Coordinator</b> Cheryl Thompson</p> <p><b>Violation Number</b> <input type="text" value="3"/></p> <p><b>Rule Cite(s)</b> <input style="width:100%;" type="text" value="30 Tex. Admin. Code § 290.51(a)(3) and Tex. Health &amp; Safety Code § 341.041"/></p> <p><b>Violation Description</b> <input style="width:100%; height: 50px;" type="text" value="Failed to pay all outstanding Public Health Service fees and late fees for TCEQ Financial Administration Account No. 91420001 for Fiscal Year 2009."/></p>	<p><b>Docket No.</b> 2009-0044-MWD-E</p> <p style="text-align: right;"><b>PCW</b></p> <p style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision October 30, 2008</p>																								
<b>Base Penalty</b> <input style="width:100%;" type="text" value="\$10,000"/>																									
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																									
<p><b>OR</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td><b>Release</b></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"><b>Percent</b> <input style="width:50px;" type="text" value="0%"/></td> </tr> <tr> <td><b>Actual</b></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td><b>Potential</b></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table>		<b>Harm</b>					Major	Moderate	Minor		<b>Release</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input style="width:50px;" type="text" value="0%"/>	<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>		
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daily	<input type="text"/>																								
weekly	<input type="text"/>																								
monthly	<input type="text"/>																								
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semiannual	<input type="text"/>																								
annual	<input type="text"/>																								
single event	<input type="text"/>																								
<input style="width:100%; border: 1px solid black;" type="text" value="No penalty is recommended at this time because penalty and interest will be assessed at the next billing."/>																									
<b>Good Faith Efforts to Comply</b>																									
<p><b>0.0% Reduction</b> <input style="width:100%;" type="text" value="\$0"/></p> <p style="font-size: small;">Before NOV    NOV to EDRP/Settlement Offer</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;">Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td colspan="2" style="text-align: center;">(mark with x)</td> </tr> </table> <p><b>Notes</b> <input style="width:100%; height: 30px;" type="text"/></p>		Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	(mark with x)																
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## Economic Benefit Worksheet

**Respondent:** City of Cotulla  
**Case ID No.:** 37002  
**Reg. Ent. Reference No.:** RN101920148  
**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				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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

There is no economic benefit associated with this violation.

Approx. Cost of Compliance \$0

TOTAL \$0

**City of Cotulla**

WQ0010153001

2009-0044-MWD-E

**Summary of the Unauthorized Discharges**

<b>Date</b>	<b>Location of Discharge</b>	<b>Description of Cause/Corrective Action</b>
05/22/2007	Manhole located on Baylor at 3 <sup>rd</sup> Street	Lightning struck and burned out both pumps. Removed two burned out pumps and replaced one pump, and repaired the burned out fuse on the light pole.
10/17/2007	Manhole located at 1201 Nueces Street	Clogged pump on lift station #2. Unclogged pumps, cleaned and reset automatic switch.
11/04/2007	Manhole located at Mendiola and Alta Vista Street	Clogged pump on lift station. Pulled the pump and reset the automatic switch and put pump back on line.
09/06/2008	Manhole located 200 yards East of I-35 and Rio Grande Street.	Loose pulley on discharge pump caused v-belt to break. Installed a pulley and new belts on the pump. Pump was primed and put back on line.
09/09/2008	Manhole Mendiola Road and Aguero Street	Rags and clothes caught on pumps 2 & 3 at the plant. Removed rags from the pump and reset the breaker. Put pumps back on line.
09/18/2008	Manhole located on Baylor and 3 <sup>rd</sup> Street	Burned fuse on AEP light pole transformer. Installed a new light fuse.
09/29/2008	Manhole located 200 yard East of I-35	Rags clogged up pump 2 at the lift station. Removed rags from the pump. Washed pump and put back on line.
10/16/2008	Manhole located on Baylor and First Street	Rain storm and lightning, electrical power failure. Reset the breakers on the electrical panel. Pump put back on line.





2	12/18/2003	(302874)
3	02/10/2004	(302875)
4	03/08/2004	(302855)
5	04/19/2004	(268545)
6	04/20/2004	(302859)
7	04/29/2004	(302861)
8	06/08/2004	(302863)
9	07/20/2004	(283317)
10	07/21/2004	(283821)
11	07/21/2004	(355088)
12	08/20/2004	(355089)
13	09/30/2004	(355090)
14	10/25/2004	(355091)
15	12/03/2004	(355092)
16	12/03/2004	(355093)
17	12/18/2004	(355094)
18	01/31/2005	(345751)
19	06/29/2005	(430000)
20	11/14/2005	(471337)
21	11/14/2005	(471339)
22	11/14/2005	(471341)
23	11/14/2005	(471342)
24	11/14/2005	(471343)
25	11/14/2005	(471344)
26	11/14/2005	(471345)
27	11/14/2005	(471346)
28	11/14/2005	(471347)
29	11/14/2005	(471350)
30	11/17/2005	(471348)
31	12/21/2005	(471349)
32	01/24/2006	(471351)
33	02/17/2006	(471338)
34	03/17/2006	(471340)
35	03/23/2006	(454111)
36	04/20/2006	(500058)
37	05/16/2006	(500059)
38	06/21/2006	(500060)
39	07/19/2006	(522167)
40	08/18/2006	(522168)
41	09/20/2006	(522169)
42	10/19/2006	(546837)
43	11/16/2006	(546838)
44	12/18/2006	(546839)
45	01/22/2007	(579167)
46	02/16/2007	(579161)
47	03/20/2007	(579162)
48	04/24/2007	(579163)
49	05/15/2007	(579164)
50	06/20/2007	(579165)
51	07/26/2007	(579166)
52	08/10/2007	(602721)
53	08/16/2007	(570842)
54	09/14/2007	(621013)
55	10/08/2007	(621014)
56	11/14/2007	(621015)
57	12/18/2007	(673147)
58	01/15/2008	(673148)
59	02/19/2008	(673145)
60	03/18/2008	(673146)
61	04/15/2008	(691295)
62	05/12/2008	(654045)
63	05/21/2008	(691296)
64	06/12/2008	(691297)
65	07/15/2008	(712194)
66	08/20/2008	(712195)
67	09/16/2008	(712196)
68	11/25/2008	(702378)

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

Date:	12/31/2003	(302875)	CN600647408	
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:	01/31/2004	(302855)	CN600647408	
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: 02/29/2004 (302859) CN600647408  
 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: 03/31/2004 (302861) CN600647408  
 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: 04/20/2004 (269624)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
 Monitoring & Reporting Requirements 7a PERMIT  
 Description: Failure to notify the TCEQ within 24 hours of becoming aware of an unauthorized discharge.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Operational Requirements 1 PERMIT  
 Description: Failure to ensure proper maintenance on the collection system.  
 Date: 04/30/2004 (302863) CN600647408  
 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: 05/31/2004 (355088) CN600647408  
 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: 06/30/2004 (355089) CN600647408  
 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 (355090) CN600647408  
 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 (355091) CN600647408  
 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: 09/30/2004 (355092) CN600647408  
 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: 10/31/2004 (355093) CN600647408  
 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: 11/30/2004 (355094) CN600647408  
 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: 12/31/2004 (471350) CN600647408  
 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: 01/31/2005 (471337) CN600647408  
 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: 02/28/2005 (471339) CN600647408  
 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:	03/31/2005	(471341)	CN600647408	
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:	04/30/2005	(471342)	CN600647408	
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:	05/31/2005	(471343)	CN600647408	
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:	06/29/2005	(430000)		
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date:	06/30/2005	(471344)	CN600647408	
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:	07/11/2005	(399573)		
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Other Requirements 1 PERMIT			
Description:	Failure to employ a properly licensed operator for the wastewater treatment facility.			
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9) Monitoring and Reporting Req. 7a PERMIT			
Description:	Failure to submit notification for sanitary sewer overflows as required by the permit.			
Date:	07/31/2005	(471345)	CN600647408	
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:	08/31/2005	(471346)	CN600647408	
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:	09/30/2005	(471347)	CN600647408	
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:	11/30/2005	(471349)	CN600647408	
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:	12/31/2005	(471351)	CN600647408	
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:	01/31/2006	(471338)	CN600647408	
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:	02/28/2006	(471340)	CN600647408	
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: 03/06/2006 (454111) CN600647408  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Eff. Lim. & Mon. Req. 1 PERMIT  
 Description: Failure to maintain compliance with effluent limitations for TSS, CBOD, and ammonia nitrogen.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Mon. & Reporting Req. 7c PERMIT  
 Description: Failure to submit required notification for exceedances in self-reported data.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Mon. & Reporting Req. 5 PERMIT  
 Description: Failure to maintain records of equipment calibration for chlorine residual and dissolved oxygen.  
 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)  
 Sludge Provisions III G - LF Disposal PERMIT  
 Description: Failure to submit sludge reports as required.  
 Date: 03/31/2006 (500058) CN600647408  
 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: 12/31/2006 (579167) CN600647408  
 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: 02/28/2007 (579162) CN600647408  
 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: 03/31/2007 (579163) CN600647408  
 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: 07/16/2007 (570842) CN600647408  
 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 from the plant or collection system since the last CCI.

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 COTULLA  
RN101920148

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§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0044-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Cotulla ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately 1.1 miles south of the intersection of State Highway 97 and State Highway 624 and 1.1 miles southeast of the intersection of U.S. Highway-Business 81 and State Highway 97 in La Salle County, Texas (the "Facility").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 30, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty-Five Thousand One Hundred Sixty-Six Dollars (\$25,166) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Five Thousand Thirty-Three Dollars (\$5,033) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Twenty Thousand One Hundred Thirty-Three Dollars (\$20,133) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
  - a. Removed two burned out pumps and replaced one pump, and repaired the burned out fuse on the light pole on May 22, 2007;
  - b. Unclogged pumps, cleaned and reset the automatic switch on October 17, 2007;
  - c. Pulled the pump and reset the automatic switch on November 4, 2007;
  - d. Installed a pulley and new belts on the pump on September 6, 2008;
  - e. Removed rags from the pump and reset the breaker on September 9, 2008;
  - f. Installed a new light fuse on September 18, 2008;
  - g. Removed rags from the pump on September 29, 2008;
  - h. Reset the breakers on the electrical panel on October 16, 2008; and
  - i. Submitted copies of the temperature logs on November 10, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to prevent unauthorized discharges, in violation of TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010153001, Permit Condition No.2.g., as documented during an investigation conducted on October 23, 2008. Specifically, the City had unauthorized discharges of raw sewage on May 22, 2007 (400 gallons), October 17, 2007 (400 gallons), November 4, 2007 (6000 gallons), September 6, 2008 (5000 gallons), September 9, 2008 (750 gallons), September 18, 2008 (500 gallons), September 29, 2008 (350 gallons) and October 16, 2008 (800 gallons). See table below:

Summary of the Unauthorized Discharges		
Date	Location of Discharge	Description of Cause/Corrective Action
05/22/2007	Manhole located on Baylor at 3 <sup>rd</sup> Street	Lightning struck and burned out both pumps. Removed two burned out pumps, replaced one pump and repaired burned out fuse on light pole.
10/17/2007	Manhole located at 1201 Nueces Street	Clogged pump on lift station #2. Unclogged pumps, cleaned and reset automatic switch.
11/04/2007	Manhole located at Mendiola and Alta Vista Street	Clogged pump on lift station. Pulled the pump and reset the automatic switch and put pump back on line.
09/06/2008	Manhole located 200 yards East of I-35 and Rio Grande Street.	Loose pulley on discharge pump caused v-belt to break. Installed a pulley and new belts on the pump. Pump was primed and put back on line.
09/09/2008	Manhole Mendiola Road and Aguero Street	Rags and clothes caught on pumps 2 & 3 at the plant. Removed rags from the pump and reset the breaker. Put pumps back on line.
09/18/2008	Manhole located on Baylor and 3 <sup>rd</sup> Street	Burned fuse on AEP light pole transformer. Installed a new light fuse.
09/29/2008	Manhole located 200 yard East of I-35	Rags clogged up pump 2 at the lift station. Removed rags from the pump. Washed pump and put back on line.
10/16/2008	Manhole located on Baylor and First Street	Rain storm and lightning, electrical power failure. Reset the breakers on the electrical panel. Pump put back on line.

2. Failed to make readily available for inspection the temperature logs for the thermometer in the refrigerator that holds samples, in violation of 30 TEX. ADMIN. CODE § 319.7(c) and TPDES Permit No. WQ0010153001, Monitoring and Reporting Requirements No. 3, as documented during an investigation conducted on October 23, 2008.
3. Failed to pay all outstanding Public Health Service fees and late fees for TCEQ Financial Administration Account No. 91420001 for Fiscal Year 2009, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. HEALTH & SAFETY CODE § 341.041, as documented during a record review conducted on January 9, 2009.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Cotulla, Docket No. 2009-0044-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 6 above, Twenty Thousand One Hundred Thirty-Three Dollars (\$20,133) 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. It is further ordered that the City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest for Financial Administration Account No. 91420001 with the notation "City of Cotulla Account No. 91420001" to the address listed in Ordering Provision No. 1 of this section;
  - b. Within 60 days after the effective date of this Agreed Order, evaluate and update the current Operation and Maintenance Plan to ensure that the plan includes regular inspections of the Facility's equipment, maintaining the pumps in good operating condition, unclogging lines on a routine basis, replacing light fuses as needed and train staff on the proper maintenance of the collection system; and
  - c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate 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 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  
Texas Commission on Environmental Quality  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3887

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. 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.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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

City of Cotulla  
DOCKET NO. 2009-0044-MWD-E  
Page 7

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Srdlien  
For the Executive Director

6/3/2009  
Date

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

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

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

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

Joe R. Lozano  
Signature

05/27/2009  
Date

Joe R. Lozano  
Name (Printed or typed)  
Authorized Representative of  
City of Cotulla

Mayor  
Title

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



Attachment A

Docket Number: 2009-0044-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Cotulla

**Payable Penalty Amount:** Twenty Thousand One Hundred Thirty-Three Dollars (\$20,133)

**SEP Amount:** Twenty Thousand One Hundred Thirty-Three Dollars (\$20,133)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up

**Location of SEP:** La Salle County

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

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP 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 Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

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

**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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

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