

Executive Summary – Enforcement Matter – Case No. 41807
Jarrell Independent School District
RN101519049
Docket No. 2011-0919-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Jarrell High School, west of Jarrell on the north side of Farm-to-Market Road 487, approximately one mile west of the intersection of Farm-to-Market Road 487 and United States Interstate Highway 35, Williamson County

Type of Operation:

Wastewater treatment facilities

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 30, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,930

Amount Deferred for Expedited Settlement: \$1,386

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$5,544

Name of SEP: Austin Parks Foundation – Restoration and Rehabilitation of the Barton Springs Bypass Tunnel

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Docket No. 2011-0919-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 17, 2011

Date(s) of NOE(s): May 12, 2011

Violation Information

1. Failed to comply with permitted effluent limitations for biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Commission on Environmental Quality (“TCEQ”) Permit No. WQ0014010001 Effluent Limitations and Monitoring Requirements A].
2. Failed to submit a noncompliance notification report for effluent violations which deviate from the permitted effluent limitation by more than 40% within five working days of becoming aware of the noncompliance. Specifically, a noncompliance notification report was not submitted for a deviation of the biochemical oxygen demand daily average limitation by more than 40% during the months of October 2010; November 2010; December 2010; January 2011; and February 2011 [30 TEX. ADMIN. CODE § 305.125(1) and (9) and TCEQ Permit No. WQ0014010001, Monitoring Requirements No. 7.c.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures:

- a. By April 7, 2011, provided additional oversight and monitoring of the Facility, made several adjustments throughout the operating process, pumped out and removed solids from the system, and installed two new water meters;
- b. By April 30, 2011, returned to compliance with the permitted effluent limitations of TPDES Permit No. WQ0014010001; and
- c. By May 9, 2011, submitted the noncompliance notification for effluent violations that occurred during the months of October 2010; November 2010; December 2010; January 2011; and February 2011.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)

**Executive Summary – Enforcement Matter – Case No. 41807
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Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: John Rouse, Superintendent, Jarrell Independent School District, P.O. Box 9, Jarrell, Texas 76537
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0919-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Jarrell Independent School District

Penalty Amount: Five Thousand Five Hundred Forty-Four Dollars (\$5,544)

SEP Offset Amount: Five Thousand Five Hundred Forty-Four Dollars (\$5,544)

Type of SEP: Pre-approved

Third-Party Recipient: Austin Parks Foundation

Project Name: Restoration and Rehabilitation of the Barton Springs Bypass Tunnel

Location of SEP: Bastrop, Blanco, Burnett, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williamson Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to 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

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to the **Austin Parks Foundation** for the *Restoration and Rehabilitation of the Barton Springs Pool Bypass Tunnel*. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Recipient and the TCEQ (the “Project”). The deteriorated condition of the Barton Springs Pool Bypass Tunnel results in a significant increase of pollutants from urban runoff into the pool. Specifically, this SEP will restore and rehabilitate the Barton Springs Pool bypass tunnel inlet grate and outlet valve by providing funds for the engineering design, materials and construction activities to repair the tunnel.

Jarrell Independent School District
Agreed Order - Attachment A

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 performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This Project benefits water quality by reducing the amount of pollutants reaching the environment.

C. Minimum Expenditure

Respondent shall contribute at least the SEP offset 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, Respondent shall contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Austin Parks Foundation
Charlie McCabe, Executive Director
816 Congress Avenue
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP offset amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP offset amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to “Texas Commission on Environmental Quality” and shall mail it to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the “Clean Texas” (or any successor) program(s). Similarly, 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 Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order 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 October 30, 2008

TCEQ

DATES	Assigned	9-Jun-2011	Screening	9-Jun-2011	EPA Due	
	PCW	9-Jun-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Jarrell Independent School District		
Reg. Ent. Ref. No.	RN101519049		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41807	No. of Violations	2
Docket No.	2011-0919-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Marty Hott
		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** **\$9,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **2.0%** Enhancement **Subtotals 2, 3, & 7** **\$180**

Notes: Enhancement for one NOV with dissimilar 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** **\$2,250**

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

Total EB Amounts \$625
Approx. Cost of Compliance \$10,125
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,930**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$6,930**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,930**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,386**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$5,544**

Screening Date 9-Jun-2011

Docket No. 2011-0919-MWD-E

PCW

Respondent Jarrell Independent School District

Policy Revision 2 (September 2002)

Case ID No. 41807

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101519049

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 2%

>> **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

Enhancement for one NOV with dissimilar violations.

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

Screening Date 9-Jun-2011

Docket No. 2011-0919-MWD-E

PCW

Respondent Jarrell Independent School District

Policy Revision 2 (September 2002)

Case ID No. 41807

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101519049

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0014010001, IV. Effluent Limitations and Monitoring Requirements A

Violation Description

Failed to comply with permitted effluent limitations, as documented during an investigation conducted on March 17, 2011 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Biochemical oxygen demand was evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

303 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,000

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

Notes The Respondent achieved compliance by April 30, 2011.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$622

Violation Final Penalty Total \$3,080

This violation Final Assessed Penalty (adjusted for limits) \$3,080

Economic Benefit Worksheet

Respondent Jarrell Independent School District
Case ID No. 41807
Reg. Ent. Reference No. RN101519049
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
<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)	\$10,000	31-Mar-2010	30-Apr-2011	1.08	\$541	n/a	\$541

Notes for DELAYED costs

Estimated cost to evaluate the Facility to determine the causes of the effluent violations and complete corrective actions, including increasing additional oversight and monitoring of the Facility, making several adjustments throughout the operating process, pumping out and removing solids from the system, and installing two new water meters. Date required is the first month of noncompliance and final date is the 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

\$10,000

TOTAL

\$541

Screening Date 9-Jun-2011

Docket No. 2011-0919-MWD-E

PCW

Respondent Jarrell Independent School District

Policy Revision 2 (September 2002)

Case ID No. 41807

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101519049

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (9) and TCEQ Permit No. WQ0014010001, Monitoring Requirements No. 7.c

Violation Description

Failed to submit a noncompliance notification report for effluent violations which deviate from the permitted effluent limitation by more than 40% within five working days of becoming aware of the noncompliance, as documented during an investigation conducted on March 17, 2011. Specifically, a noncompliance notification report was not submitted for a deviation of the biochemical oxygen demand daily average limitation by more than 40% during the months of October 2010; November 2010; December 2010; January 2011; and February 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5

186 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,000

Five single events are recommended (one event per month).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes The Respondent achieved compliance by May 9, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$3,850

This violation Final Assessed Penalty (adjusted for limits) \$3,850

Economic Benefit Worksheet

Respondent Jarrell Independent School District
Case ID No. 41807
Req. Ent. Reference No. RN101519049
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$125	4-Nov-2010	9-May-2011	0.51	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to submit the required noncompliance notification (\$25 per month). Date required is the date the first noncompliance notification was due (five days after the final testing was completed for the month of October 2010) and final date is the date the noncompliance notification was submitted to the TCEQ.

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

\$125

TOTAL

\$3

Jarrell Independent School District
TCEQ Permit No. WQ0014010001
Docket No. 2011-0919-MWD-E
Case No. 41807

EFFLUENT VIOLATION TABLE	
Months	BOD Daily Ave. Conc.
	Limit = 20 mg/L
March 2010	25
April 2010	37
May 2010	33
June 2010	23
September 2010	23
October 2010	30
November 2010	32
December 2010	69
January 2011	41
February 2011	38

Ave. = average

BOD = biochemical oxygen demand

Conc. = concentration

mg/L = milligrams per Liter



Compliance History

Customer/Respondent/Owner-Operator: CN600794234 JARRELL INDEPENDENT SCHOOL DISTRICT Classification: AVERAGE Rating: 1.67

Regulated Entity: RN101519049 JARRELL HIGH SCHOOL Classification: AVERAGE Site Rating: 0.33

ID Number(s): WASTEWATER PERMIT WQ0014010001
 EDWARDS AQUIFER REGISTRATION 11-98050801
 EDWARDS AQUIFER REGISTRATION 11-97091702
 EDWARDS AQUIFER REGISTRATION 11-98042301
 EDWARDS AQUIFER REGISTRATION 11-99022502
 EDWARDS AQUIFER REGISTRATION 11-98042301A
 EDWARDS AQUIFER REGISTRATION 11-99022502A
 EDWARDS AQUIFER REGISTRATION 11-98042301B

Location: WEST OF JARRELL ON THE NORTH SIDE OF FARM-TO-MARKET ROAD 487, APPROXIMATELY ONE MILE WEST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 487 AND UNITED STATES INTERSTATE HIGHWAY 35, WILLIAMSON COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: June 24, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 24, 2006 to June 24, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Marty Hott Phone: (512) 239-2587

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|----------|----------|
| 1 | 07/31/06 | (484863) |
| 2 | 09/18/06 | (512309) |
| 3 | 05/11/11 | (906546) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|-----------------------|
| Date: | 07/28/2006 | (484863) | CN600794234 |
| Self | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 317 317.4(j)(2)(A)(i) | | |
| Description: | There were willow trees and weeds growing in the holding pond. | | |
- 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
JARRELL INDEPENDENT
SCHOOL DISTRICT
RN101519049**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0919-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 Jarrell Independent School District ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates wastewater treatment facilities located west of Jarrell on the north side of Farm-to-Market Road 487, approximately one mile west of the intersection of Farm-to-Market Road 487 and United States Interstate Highway 35 in Williamson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 17, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Six Thousand Nine Hundred Thirty Dollars (\$6,930) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Three Hundred Eighty-Six Dollars (\$1,386) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Five Thousand Five Hundred Forty-Four Dollars (\$5,544) shall be conditionally offset by the Respondent'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 Respondent 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 Respondent has implemented the following corrective measures:
 - a. By April 7, 2011, provided additional oversight and monitoring of the Facility, made several adjustments throughout the operating process, pumped out and removed solids from the system, and installed two new water meters;
 - b. By April 30, 2011, returned to compliance with the permitted effluent limitations of TCEQ Permit No. WQ0014010001; and
 - c. By May 9, 2011, submitted the noncompliance notification for effluent violations that occurred during the months of October 2010; November 2010; December 2010; January 2011; and February 2011.
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 Respondent 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 Respondent is alleged to have:

1. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014010001 Effluent Limitations and Monitoring Requirements A, as documented during an investigation conducted on March 17, 2011 and shown in the following table:

EFFLUENT VIOLATION TABLE	
Months	BOD Daily Ave. Conc.
	Limit = 20 mg/L
March 2010	25
April 2010	37
May 2010	33
June 2010	23
September 2010	23
October 2010	30
November 2010	32
December 2010	69
January 2011	41
February 2011	38

Ave. = average BOD = biochemical oxygen demand
Conc. = concentration mg/L = milligrams per Liter

2. Failed to submit a noncompliance notification report for effluent violations which deviate from the permitted effluent limitation by more than 40% within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (9) and TCEQ Permit No. WQ0014010001, Monitoring Requirements No. 7.c, as documented during an investigation conducted on March 17, 2011. Specifically, a noncompliance notification report was not submitted for a deviation of the biochemical oxygen demand daily average limitation by more than 40% during the months of October 2010; November 2010; December 2010; January 2011; and February 2011.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Jarrell Independent School District, Docket No. 2011-0919-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Five Hundred Forty-Four Dollars (\$5,544) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

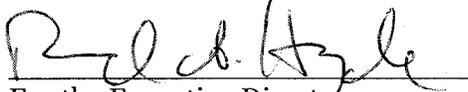
Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/14/11

Date

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

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

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

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



Signature

8/25/11

Date

JOHN ROUSE

Name (Printed or typed)
Authorized Representative of
Jarrell Independent School District

SUPERINTENDENT

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: 2011-0919-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Jarrell Independent School District

Penalty Amount: Five Thousand Five Hundred Forty-Four Dollars (\$5,544)

SEP Offset Amount: Five Thousand Five Hundred Forty-Four Dollars (\$5,544)

Type of SEP: Pre-approved

Third-Party Recipient: Austin Parks Foundation

Project Name: Restoration and Rehabilitation of the Barton Springs Bypass Tunnel

Location of SEP: Bastrop, Blanco, Burnett, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williamson Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to 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

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to the **Austin Parks Foundation** for the *Restoration and Rehabilitation of the Barton Springs Pool Bypass Tunnel*. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Recipient and the TCEQ (the “Project”). The deteriorated condition of the Barton Springs Pool Bypass Tunnel results in a significant increase of pollutants from urban runoff into the pool. Specifically, this SEP will restore and rehabilitate the Barton Springs Pool bypass tunnel inlet grate and outlet valve by providing funds for the engineering design, materials and construction activities to repair the tunnel.

Jarrell Independent School District
Agreed Order - Attachment A

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 performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This Project benefits water quality by reducing the amount of pollutants reaching the environment.

C. Minimum Expenditure

Respondent shall contribute at least the SEP offset 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, Respondent shall contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Austin Parks Foundation
Charlie McCabe, Executive Director
816 Congress Avenue
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP offset amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP offset amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to “Texas Commission on Environmental Quality” and shall mail it to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the “Clean Texas” (or any successor) program(s). Similarly, 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 Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.