

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2009-1689-MWD-E

RN102096203

CASE NOS. 37882, 38545

RESPONDENT NAME: CITY OF OVERTON

ORDER TYPE:		
<input checked="" type="checkbox"/> 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	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

SITE WHERE VIOLATIONS OCCURRED: 2900 feet east of the intersection of Henderson Street and Linda Lane, Overton, Rusk County

TYPE OF OPERATION: domestic wastewater treatment system

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired February 7, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Jeffrey J. Huhn, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Harvey Wilson, Water Enforcement Section, MC 219, (512) 239-0321

TCEQ Regional Contact: Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174

Respondent: B. J. Potts, City Manager, City of Overton, 1200 South Commerce, Overton, Texas 75684

Respondent's Attorney: Not represented by counsel on this enforcement matter.

**RESPONDENT NAME: CITY OF OVERTON
DOCKET NO. 2009-1689-MWD-E**

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint: N/A</p> <p>Dates of Investigation: June 2, 2009 June 23-July 7, 2009</p> <p>Dates of NOEs: June 15, 2009 September 25, 2009</p> <p>Background Facts: The EDRP was filed on October 8, 2009. Respondent filed an answer and the case was referred to SOAH. The Agreed Order was signed on December 9, 2010.</p> <p>MWD:</p> <ol style="list-style-type: none"> Failed to prevent unauthorized discharges from the sewage collection system on June 2, 2009 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(5), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010242001, Permit Conditions 2.g.]. Failed to prevent unauthorized discharges from the sewage collection system on June 18 and 23, 2009 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(5), and TPDES Permit Number WQ0010242001, Permit Conditions 2.g.] Failed to submit noncompliance notification for an unauthorized discharge of approximately 30, 000 gallons of wastewater that occurred on June 23, 2009 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(9), and TPDES Permit Number WQ0010242001, Monitoring and Reporting Requirements No. 7]. Failed to have adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternative power sources, standby generators, and/or retention or inadequately treated waste [TEX. WATER CODE § 26.121(A), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit Number WQ0010242001, Operational Requirements No. 4]. 	<p>Total Assessed: \$52,065</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$1,490/\$50,575</p> <p>Respondent paid \$1,490 of the administrative penalty. The remaining amount of \$50,575 shall be payable in 35 monthly payments of \$1,445 each.</p> <p>Compliance History Classifications: <i>Person/CN – Average</i> <i>Site/RN – Average</i></p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions: Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, update the facility's operational guidance and conduct employee training to ensure that all reporting requirements properly accomplished, including the timely submittal of noncompliance notifications for unauthorized discharges. Within 90 days: <ol style="list-style-type: none"> Implement adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastes; and Conduct an evaluation of the collection system to determine the cause of the unauthorized discharges that occurred on June 2, June 18, and June 23, 2009. Within 180 days, perform any repairs to the collection system as determined by the results of the evaluation conducted pursuant to Ordering Provision 2.b. Within 195 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	15-Jun-2009	Screening	1-Jul-2009	EPA Due	
	PCW	28-Sep-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Overton
Reg. Ent. Ref. No.	RN102096203
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37882	No. of Violations	1
Docket No.	2009-1689-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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.

Compliance History	101.0% Enhancement	Subtotals 2, 3, & 7	\$2,525
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Notes: An enhancement is recommended because the City has 17 self-reported effluent violations, three NOV's for non-similar violations, and two NOV's for the same or similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$0
 Approx. Cost of Compliance \$1,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,025
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$5,025

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,025
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$5,025
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Screening Date 1-Jul-2009

Docket No. 2009-1689-MWD-E

PCW

Respondent City of Overton

Policy Revision 2 (September 2002)

Case ID No. 37882

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102096203

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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 (<i>number of NOVs meeting criteria</i>)	19	95%
	Other written NOVs	3	6%
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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 101%

>> **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
 An enhancement is recommended because the City has 17 self-reported effluent violations, three NOV's for non-similar violations, and two NOV's for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 101%

Screening Date 1-Jul-2009 **Docket No.** 2009-1689-MWD-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 37882 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102096203
Media [Statute] Water Quality
Enf. Coordinator Harvey Wilson

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(5), and Texas Pollutant Discharged Elimination System ("TPDS") Permit No. WQ0010242001 Permit Conditions 2.g

Violation Description Failed to prevent unauthorized discharges from the sewage collection system. Specifically, during an investigation on June 2, 2009, an unauthorized discharge was observed occurring from a manhole in the collection system located in the right-of-way off Uren Lee Road and there was a large amount of sewage sludge and solids around the area of the overflow.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One monthly event is recommended.

Good Faith Efforts to Comply Reduction

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

Notes The Respondent returned to compliance on June 5, 2009.

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 Overton
Case ID No. 37882
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	2-Jun-2009	5-Jun-2009	0.01	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of clearing the sewer line, flushing the receiving stream, and treating the stream and contaminated soil with lime and powdered chlorine. Date required is the date the violation was first documented. Final Date is the date the Respondent returned to compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	25-Sep-2009	Screening	13-Oct-2009	EPA Due	
	PCW	8-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Overton
Reg. Ent. Ref. No.	RN102096203
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38545	No. of Violations	3
Docket No.	2009-1689-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$21,000
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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.

Compliance History	124.0% Enhancement	Subtotals 2, 3, & 7	\$26,040
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Notes
An enhancement is recommended because the City has 21 self-reported effluent violations, two NOVs for non-similar violations, and three NOVs for the same or similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$950
Approx. Cost of Compliance	\$16,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$47,040
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$47,040
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$47,040
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$47,040
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Screening Date 13-Oct-2009

Docket No. 2009-1689-MWD-E

PCW

Respondent City of Overton

Policy Revision 2 (September 2002)

Case ID No. 38545

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102096203

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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 (<i>number of NOVs meeting criteria</i>)	24	120%
	Other written NOVs	2	4%
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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 124%

>> 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

An enhancement is recommended because the City has 21 self-reported effluent violations, two NOVs for non-similar violations, and three NOVs for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 124%

Screening Date 13-Oct-2009 **Docket No.** 2009-1689-MWD-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 38545 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102096203
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code § 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Permit Conditions 2.g.

Violation Description Failed to prevent unauthorized discharges from the sewage collection system as documented during an investigation conducted on June 23, 2009. See attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation.

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 checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Four monthly events are recommended. The penalty was calculated from the date of the first unauthorized discharge, June 18, 2009, to the screening date, October 13, 2009.

Good Faith Efforts to Comply

Reduction

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

Notes: The Respondent does not meet good faith criteria.

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)

VIOLATION TABLE
City of Overton
Permit No. WQ0010242001
Docket No. 2009-1689-MWD-E

Date	Location	Amount discharge (gallons)	Description
06/18/2009	Discharge of raw sewage from a manhole near Uren Lee Road, entering the unnamed tributary of Little Rabbit Creek	50,000	Roots and grease in the collection system
06/23/2009	Discharge of raw sewage from a manhole near Uren Lee Road, entering the unnamed tributary of Little Rabbit Creek	30,000	Roots and grease in the collection system

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 38545
Reg. Ent. Reference No. RN102096203
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
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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	\$5,000	18-Jun-2009	1-Jun-2010	0.95	\$16	\$318	\$334
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	\$1,000	18-Jun-2009	23-Jun-2009	0.01	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The estimated cost of clearing the sewer line, flushing the receiving stream, treating the stream and contaminated soil with lime and powdered chlorine, and to conduct an evaluation of the collection system to determine the cause of the unauthorized discharges . Date required is the date the violation was first documented. Final Date is the estimated 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

\$6,000

TOTAL

\$334

Screening Date 13-Oct-2009 **Docket No.** 2009-1689-MWD-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 38545 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102096203
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number

Rule Cite(s)
 Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code § 305.125(9), and TPDES Permit No. WQ0010242001 Monitoring and Reporting Requirements 7

Violation Description
 Failed to submit noncompliance notification for an unauthorized discharge. Specifically, the City failed to report an unauthorized discharge of approximately 30,000 gallons of wastewater that occurred on June 23, 2009.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>>Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 38545
Reg. Ent. Reference No. RN102096203
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	\$500	23-Jun-2009	31-Mar-2010	0.77	\$19	n/a	\$19
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 conduct employee training to ensure that all reporting requirements are properly accomplished and timely submitted. Date Required is the date of the discharge. Final Date is the estimated 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

\$500

TOTAL

\$19

Screening Date 13-Oct-2009 **Docket No.** 2009-1689-MWD-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 38545 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102096203
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors."/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

mark only one with an x
Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV		NOV to EDRP/Settlement Offer
	Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(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 Overton
Case ID No. 38545
Reg. Ent. Reference No. RN102096203
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	\$10,000	23-Jun-2009	30-Apr-2010	0.85	\$28	\$568	\$596
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

The estimated cost of providing adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures. Date Required is the investigation date. Final Date is the estimated 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

\$596

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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600634877	City of Overton	Classification: AVERAGE	Rating: 2.27
Regulated Entity:	RN102096203	CITY OF OVERTON WASTEWATER TREATMENT PLANT	Classification: AVERAGE	Site Rating: 0.81
ID Number(s):	WASTEWATER	PERMIT	WQ0010242001	
	WASTEWATER	PERMIT	TPDES0104272	
	WASTEWATER	PERMIT	TX0104272	
	WASTEWATER LICENSING	LICENSE	WQ0010242001	
Location:	2900 feet east of the intersection of Henderson Street and Linda Lane in Rusk County, Texas			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	June 26, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 26, 2004 to June 26, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Harvey Wilson		Phone:	(512) 239 - 0321

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court 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	07/26/2004	(364229)
2	09/09/2004	(364230)
3	11/09/2004	(388629)
4	01/05/2005	(388630)
5	01/13/2005	(346634)
6	01/31/2005	(388631)
7	02/28/2005	(430587)
8	04/01/2005	(430588)
9	04/20/2005	(430589)
10	05/23/2005	(430590)
11	06/21/2005	(430591)
12	06/24/2005	(396401)
13	07/21/2005	(430592)
14	08/11/2005	(446569)
15	09/19/2005	(446570)
16	10/20/2005	(479315)
17	11/21/2005	(479316)
18	12/13/2005	(438615)
19	12/22/2005	(479317)
20	01/23/2006	(479318)
21	02/23/2006	(479313)
22	03/22/2006	(479314)
23	04/24/2006	(505094)
24	05/22/2006	(505095)
25	06/16/2006	(505096)
26	07/10/2006	(486034)
27	07/19/2006	(527401)
28	08/21/2006	(527402)
29	09/21/2006	(527403)
30	10/19/2006	(551149)
31	11/27/2006	(551150)
32	01/18/2007	(587755)
33	01/22/2007	(587756)
34	02/26/2007	(587750)
35	03/21/2007	(587751)
36	04/24/2007	(587752)
37	05/23/2007	(587753)
38	06/21/2007	(587754)

39	07/24/2007	(605186)
40	08/22/2007	(572827)
41	08/22/2007	(605187)
42	09/24/2007	(605188)
43	10/22/2007	(628562)
44	11/27/2007	(628563)
45	12/19/2007	(628564)
46	01/22/2008	(676454)
47	02/11/2008	(676453)
48	03/24/2008	(694914)
49	04/21/2008	(694915)
50	05/22/2008	(694916)
51	06/23/2008	(716407)
52	07/21/2008	(716408)
53	07/25/2008	(683323)
54	08/20/2008	(716409)
55	09/22/2008	(716410)
56	10/22/2008	(731870)
57	11/21/2008	(708012)
58	11/24/2008	(731871)
59	12/11/2008	(710329)
60	12/22/2008	(731872)
61	01/22/2009	(755276)
62	02/24/2009	(755275)
63	03/27/2009	(725285)
64	03/31/2009	(739911)

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

Date: 09/30/2004 (388629) CN600634877

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: 06/27/2005 (396401)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)

Description: Failure to protect potable water from contamination.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(g)(4)(B)

Description: Failure to properly operate and maintain aeration basin.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.5(b)

Description: Failure to properly operate and maintain the sludge digester.

Date: 12/13/2005 (438615) CN600634877

Self Report? NO Classification: Moderate

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

Description: Failure to prevent the unauthorized discharge of wastewater into waters of the state.

Date: 07/31/2006 (527402) CN600634877

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: 08/31/2006 (527403) CN600634877

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 (587756) CN600634877

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: 01/31/2007 (587750) CN600634877

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:	06/30/2007	(605186)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2007	(605187)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2007	(628563)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2007	(628564)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2007	(676454)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/30/2008	(694916)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	05/31/2008	(716407)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/30/2008	(683323)	CN600634877	
Self Report?	NO			Classification: Minor
Citation:	30 TAC Chapter 317 317.3(e)(4)(D)			
Description:	Failure to have the appropriate functional high level alarms in the Texas A&M lift station and the Warren Street lift station.			
Self Report?	NO			Classification: Minor
Citation:	30 TAC Chapter 317 317.3(c)(1) 30 TAC Chapter 317 317.3(c)(2) 30 TAC Chapter 317 317.3(c)(3) 30 TAC Chapter 317 317.3(c)(4) 30 TAC Chapter 317 317.3(c)(5) 30 TAC Chapter 317 317.3(c)(6) 30 TAC Chapter 317 317.3(c)(7)			
Description:	Failure to have two functional pumps operating at the following lift stations: FM 2089, JRM (May), Warren Street, and the HWY 850 lift station.			
Date:	07/31/2008	(716409)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2008	(716410)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2008	(731870)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2008	(731871)	CN600634877	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

Date: 11/30/2008 (731872) CN600634877
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 12/15/2008 (710329) CN600634877
Self Report? NO Classification: Moderate

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

Description: Failure to properly prevent an unauthorized discharge as specified in the Texas Water Code §26.121(a).

Date: 03/27/2009 (739911) CN600634877
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to have adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastes.

- 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

Compliance History Report

Customer/Respondent/Owner-Operator: CN600634877 City of Overton Classification: AVERAGE Rating: 2.39
 Regulated Entity: RN102096203 CITY OF OVERTON WASTEWATER TREATMENT PLANT
 Classification: AVERAGE Site Rating: 1.16

ID Number(s): WASTEWATER PERMIT WQ0010242001
 WASTEWATER PERMIT TPDES0104272
 WASTEWATER PERMIT TX0104272
 WASTEWATER LICENSING LICENSE WQ0010242001

Location: 2900 feet east of the intersection of Henderson Street and Linda Lane in Rusk County, Texas
 TCEQ Region: REGION 05 - TYLER
 Date Compliance History Prepared: October 29, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: October 29, 2004 to October 29, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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: 9/1/2009 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	11/09/2004	(388629)
2	01/05/2005	(388630)
3	01/13/2005	(346634)
4	01/31/2005	(388631)
5	02/28/2005	(430587)
6	04/01/2005	(430588)
7	04/20/2005	(430589)
8	05/23/2005	(430590)
9	06/21/2005	(430591)
10	06/24/2005	(396401)
11	07/21/2005	(430592)
12	08/11/2005	(446569)
13	09/19/2005	(446570)
14	10/20/2005	(479315)
15	11/21/2005	(479316)
16	12/13/2005	(438615)
17	12/22/2005	(479317)
18	01/23/2006	(479318)
19	02/23/2006	(479313)
20	03/22/2006	(479314)
21	04/24/2006	(505094)
22	05/22/2006	(505095)
23	06/16/2006	(505096)
24	07/10/2006	(486034)
25	07/19/2006	(527401)
26	08/21/2006	(527402)
27	09/21/2006	(527403)
28	10/19/2006	(551149)
29	11/27/2006	(551150)
30	01/18/2007	(587755)
31	01/22/2007	(587756)
32	02/26/2007	(587750)
33	03/21/2007	(587751)
34	04/24/2007	(587752)
35	05/23/2007	(587753)
36	06/21/2007	(587754)
37	07/24/2007	(605186)

38 08/22/2007 (572827)
 39 08/22/2007 (605187)
 40 09/24/2007 (605188)
 41 10/22/2007 (628562)
 42 11/27/2007 (628563)
 43 12/19/2007 (628564)
 44 01/22/2008 (676454)
 45 02/11/2008 (676453)
 46 03/24/2008 (694914)
 47 04/21/2008 (694915)
 48 05/22/2008 (694916)
 49 06/23/2008 (716407)
 50 07/21/2008 (716408)
 51 07/25/2008 (683323)
 52 08/20/2008 (716409)
 53 09/22/2008 (716410)
 54 10/22/2008 (731870)
 55 11/21/2008 (708012)
 56 11/24/2008 (731871)
 57 12/11/2008 (710329)
 58 12/22/2008 (731872)
 59 01/22/2009 (755276)
 60 02/24/2009 (755275)
 61 03/23/2009 (772371)
 62 03/27/2009 (725285)
 63 03/31/2009 (739911)
 64 04/23/2009 (772372)
 65 05/22/2009 (772373)
 66 10/07/2009 (775673)

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

1 Date: 06/27/2005 (396401) CN600634877
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(a)(8)
 30 TAC Chapter 317 317.7(i)
 Description: Failure to protect potable water from contamination.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)(4)(B)
 Description: Failure to properly operate and maintain aeration basin.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.5(b)
 Description: Failure to properly operate and maintain the sludge digester.
 2 Date: 12/13/2005 (438615) CN600634877
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 Description: Failure to prevent the unauthorized discharge of wastewater into waters of the state.
 3 Date: 07/31/2006 (527402) CN600634877
 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
 4 Date: 08/31/2006 (527403) CN600634877
 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
 5 Date: 12/31/2006 (587756) CN600634877
 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
 6 Date: 01/31/2007 (587750) CN600634877
 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

7	Date: 06/30/2007 (605186)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
8	Date: 07/31/2007 (605187)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
9	Date: 10/31/2007 (628563)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
10	Date: 11/30/2007 (628564)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
11	Date: 12/31/2007 (676454)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
12	Date: 04/30/2008 (694916)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
13	Date: 05/31/2008 (716407)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
14	Date: 07/30/2008 (683323)	CN600634877	
	Self Report? NO		Classification: Minor
	Citation: 30 TAC Chapter 317 317.3(e)(4)(D)		
	Description: Failure to have the appropriate functional high level alarms in the Texas A&M lift station and the Warren Street lift station.		
	Self Report? NO		Classification: Minor
	Citation: 30 TAC Chapter 317 317.3(c)(1) 30 TAC Chapter 317 317.3(c)(2) 30 TAC Chapter 317 317.3(c)(3) 30 TAC Chapter 317 317.3(c)(4) 30 TAC Chapter 317 317.3(c)(5) 30 TAC Chapter 317 317.3(c)(6) 30 TAC Chapter 317 317.3(c)(7)		
	Description: Failure to have two functional pumps operating at the following lift stations: FM 2089, JRM (May), Warren Street, and the HWY 850 lift station.		
15	Date: 07/31/2008 (716409)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
16	Date: 08/31/2008 (716410)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
17	Date: 09/30/2008 (731870)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
18	Date: 10/31/2008 (731871)	CN600634877	
	Self Report? YES		Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

19	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	11/30/2008 (731872)	CN600634877	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
20	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	12/15/2008 (710329)	CN600634877	
	Self Report?	NO	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	Description:	Failure to properly prevent an unauthorized discharge as specified in the Texas Water Code §26.121(a).		
21	Date:	01/31/2009 (755275)	CN600634877	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
22	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	02/28/2009 (772371)	CN600634877	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
23	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	03/27/2009 (739911)	CN600634877	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description:	Failure to have adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastes.		
24	Date:	03/31/2009 (772372)	CN600634877	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
25	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	04/30/2009 (772373)	CN600634877	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
26	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	07/31/2009	CN600634877	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF OVERTON;
RN102096203**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2009-1689-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding City of Overton ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates a domestic wastewater treatment system located 2900 feet east of the intersection of Henderson Street and Linda Lane in Overton, Rusk County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE Ch.26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of fifty-two thousand sixty-five dollars (\$52,065.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one thousand four hundred ninety dollars (\$1,490.00) of the administrative penalty. The remaining amount of fifty thousand five hundred seventy-five dollars (\$50,575.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one thousand four hundred forty-five dollars (\$1,445.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If

Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on June 2, 2009, a TCEQ Tyler Regional Office investigator documented that Respondent violated TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Permit Conditions 2.g by failing to prevent unauthorized discharges from the sewage collection system. Specifically, an unauthorized discharge was observed occurring from a manhole in the collection system located in the right-of-way off Uren Lee Road and there was a large amount of sewage sludge and solids around the area of the overflow.
2. During an investigation on June 23 – July 7, 2009, a TCEQ Tyler Regional Office investigator documented that Respondent violated:
 - a. TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0010242001 Permit Conditions 2.g. by failing to prevent unauthorized discharges from the sewage collection system as depicted below:

Date	Location	Amount discharge (gallons)	Description
06/18/2009	Discharge of raw sewage from a manhole near Uren Lee Road, entering the unnamed tributary of Little Rabbit Creek	50,000	Roots and grease in the collection system
06/23/2009	Discharge of raw sewage from a manhole near Uren Lee Road, entering the unnamed tributary of Little Rabbit Creek	30,000	Roots and grease in the collection system

- b. TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010242001 Monitoring and Reporting Requirements No. 7, by failing to submit noncompliance notification for an unauthorized discharge of approximately 30,000 gallons of wastewater that occurred on June 23, 2009; and
 - c. TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010242001 Operational Requirements No. 4, by failing to have adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternative power sources, standby generators, and/or retention of inadequately treated waste.
3. Respondent received notice of the violation documented June 2, 2009 on or about June 20, 2009, and the violations documented on June 23-July 7, 2009 on or about September 30, 2009.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

- 1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Overton, Docket No. 2009-1689-MWD-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall update the Facility's operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished, including the timely submittal of noncompliance notifications for unauthorized discharges (Allegation 2.b.).
 - b. Within 90 days after the effective date of this Agreed Order, Respondent shall
 - i. Implement adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastes (Allegation 2.c.); and
 - ii. Conduct an evaluation of the collection system to determine the cause of the unauthorized discharges that occurred on June 2, June 18 and June 23, 2009 (Allegation 1 and 2.a.).
 - c. Within 180 days after the effective date of this Agreed Order, Respondent shall perform any repairs to the collection system as determined by the results of the evaluation conducted pursuant to Ordering Provision No. 2.b.ii., above.
 - d. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and shall 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."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

Noel Luper, Water Section
Texas Commission on Environmental Quality
Tyler Regional Office
2916 Teague Dr.
Tyler, TX 75701-3734

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent 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 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.
8. 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

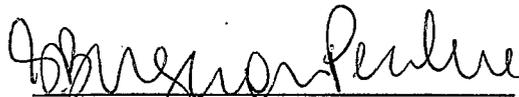
original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced 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.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

3/16/2011

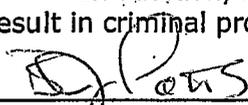
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of City of Overton, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.


Signature

B. J. Potts
Name (Printed or typed)
Authorized representative of
City of Overton

12-9-10
Date

City Manager
Title