

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-1013-MWD-E **TCEQ ID:** RN102079985 **CASE NO.:** 39914
RESPONDENT NAME: City of Kilgore

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Kilgore WWTP, located approximately 0.7 mile east and 0.4 mile north of the intersection of United States Highway 259 and Farm-to-Market Road 2204, Kilgore, Gregg County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 28, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Ms. Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable R. E. Spradlin III, Mayor, City of Kilgore, 815 North Kilgore Street, Kilgore, Texas 75662 Mr. Jeffrey Howell, City Manager, City of Kilgore, 815 North Kilgore Street, Kilgore, Texas 75662 Respondent's Attorney: Mr. Robert Pressley, Mathews & Freeland, L.L.P., P.O. Box 1568, Austin, Texas 78767</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 24, 2010</p> <p>Date of NOV/NOE Relating to this Case: June 3, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failed to comply with permitted effluent limitations for carbonaceous biochemical oxygen demand, flow, dissolved oxygen, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010201001 Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6 for Outfall 002].</p> <p>2) Failed to timely submit the discharge monitoring report ("DMR") for whole effluent toxicity ("WET") at the intervals specified in the permit. Specifically, the quarterly WET DMR for the period ending September 30, 2009 and the semiannual WET DMR for the period ending December 31, 2009 were not submitted by their respective due dates [30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010201001, Chronic Biomonitoring Requirements: Freshwater, No. 3.b.3 and 24-Hour Acute Biomonitoring Requirements: Freshwater, No. 3.b.1].</p>	<p>Total Assessed: \$25,704</p> <p>Total Deferred: \$5,140 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$20,564</p> <p>Total Paid to General Revenue: \$0</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on June 16, 2010, the Respondent submitted the quarterly WET DMR for the period ending September 30, 2009 and the semiannual WET DMR for the period ending December 31, 2009.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Every six (6) months starting from the effective date of this Agreed Order, submit a progress report to the TCEQ describing the actions taken to facilitate compliance with the permitted effluent limitations; and</p> <p>b. Within 730 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010201001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0010201001

Attachment A
Docket Numbers: 2010-1013-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Kilgore
Penalty Amount:	Twenty Thousand Five Hundred Sixty-Four Dollars (\$20,564)
SEP Offset Amount:	Twenty Thousand Five Hundred Sixty-Four Dollars (\$20,564)
Type of SEP:	Custom
Location of SEP:	Gregg County

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

1. Project Description

A. Project

The Respondent shall hold two one-day events for the collection, recycling, or proper disposal of residential electronic waste ("E-waste") consisting of computers, cell phones, scanners and televisions; and residential universal waste ("U-waste") consisting of household batteries, florescent light bulbs and non-empty aerosol cans. The Respondent shall offer a designated drop-off location where the public can drop off materials for disposal or recycling at no cost to the citizens. The events will be advertised in a local newspaper to increase public awareness of and participation in the events.

The Respondent shall ensure that the events:

- are advertised to the public with the required enforcement statement;
- occur on a weekend during daylight hours;
- offer to the public a convenient drop-off location; and
- include recycling and proper disposal of electronics, household batteries, light bulbs, and non-empty aerosol cans.

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

The Respondent shall perform these events in accordance with all federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the events and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the events.

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

B. Environmental Benefit

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

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

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of wastes that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall perform the SEP in accordance with the schedule shown in the Performance Schedule Deliverable table below, and shall have completed the SEP in its entirety within one year following the effective date of this Agreed Order.

Days from Effective Order Date	Percentage of Project to Be Completed	Performance Schedule Deliverable
30	Begin	Notice of Commencement describing actions taken to begin project
90	1/4	Receive approval from TCEQ (and Bid Project, if applicable)
120	1/2	Receive approval from TCEQ for advertisement(s) and publishing
180	3/4	Provide notice of event date(s) to TCEQ;
365	Completion	Final completion of SEP with Final Report to be provided within 60 days of completion date, as described in Section 3.B., below.

3. Reporting

A. Progress Reports

The Respondent shall submit Progress Reports to the TCEQ SEP Coordinator according to the schedule provided in the Progress Report Deliverable table below.

Days from Effective Order Date	Progress Report Deliverable
30	Notice of Commencement describing actions being taken to begin project
90	Second Progress Report to provide report of actions taken to implement project.
120	Third Progress Report to provide report of actions taken to implement project.
210	Fourth Progress Report to provide report of actions taken to implement project.
280	Fifth Progress Report to provide report of actions taken to implement project.
365	Notice of SEP Completion, with Final Report to follow within 60 days of completion of project.

B. Final Report

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

1. A summary total of the amount of costs incurred;
2. An itemized list of expenditures and costs incurred;
3. Copies of invoices, paid receipts, cleared checks, and other verifying documentation must be included with the Final Report;
4. If Respondent requests to receive credit for overtime use of its own employees, time card records certified by a supervisor and confirmed by respondent's Payroll section will be required. Time cards will include first and last name of employee, rate of pay, and total number of hours worked;
5. Copies of a) proof of advertisement of the event (the advertisement must include the statement that the SEP was performed as a result of a TCEQ enforcement action); and b) proof of publication of invitation for (and selection of) competitive bids for the project, if applicable;
6. A statement of the quantifiable environmental benefits. The Respondent must quantify the environmental benefit of the project;
7. Map showing specific location(s) of the collection site(s);
8. Photographs of the project showing items being collected, counted and transported;
9. Manifests sufficient to show proof of proper disposal and/or recycling of the collected items. Sufficient documentation must be provided to show proof of proper disposal or recycling of the collected E-waste, and U-waste;

10. A count of the number and type(s) of items collected; i.e. number of computers, light bulbs, batteries, etc; and
11. Any additional information the Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A;

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

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

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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned PCW	7-Jun-2010	Screening	21-Jun-2010	EPA Due	5-Sep-2010
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RESPONDENT/FACILITY INFORMATION	
Respondent	City of Kilgore
Reg. Ent. Ref. No.	RN102079985
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39914	No. of Violations	2
Docket No.	2010-1013-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	\$10,200
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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	152.0% Enhancement	Subtotals 2, 3, & 7	\$15,504
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Notes: An enhancement is recommended for 25 self-reported effluent violations, five NOV's with same/similar violations, and one NOV with dissimilar 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
Total EB Amounts	\$629,574	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$3,306,413		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$25,704
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Notes:

Final Penalty Amount	\$25,704
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$25,704
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DEFERRAL	20.0% Reduction	Adjustment	-\$5,140
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Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$20,564
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Screening Date 21-Jun-2010

Docket No. 2010-1013-MWD-E

PCW

Respondent City of Kilgore

Policy Revision 2 (September 2002)

Case ID No. 39914

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102079985

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 NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	30	150%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 152%

>> 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 for 25 self-reported effluent violations, five NOVs with same/similar violations, and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 152%

Screening Date 21-Jun-2010

Docket No. 2010-1013-MWD-E

PCW

Respondent City of Kilgore

Policy Revision 2 (September 2002)

Case ID No. 39914

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102079985

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 Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010201001 Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6 for Outfall 002

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on May 24, 2010 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 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, flow, and dissolved oxygen were also evaluated. 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 4

213 Number of violation days

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

Violation Base Penalty \$10,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$629,573

Violation Final Penalty Total \$25,200

This violation Final Assessed Penalty (adjusted for limits) \$25,200

Economic Benefit Worksheet

Respondent City of Kilgore
Case ID No. 39914
Req. Ent. Reference No. RN102079985
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)	\$3,306,393	31-May-2009	21-Mar-2013	3.81	\$629,573	n/a	\$629,573

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and take necessary corrective actions to maintain compliance with permitted effluent limitations. Date required is the first month of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,306,393

TOTAL

\$629,573

Screening Date 21-Jun-2010

Docket No. 2010-1013-MWD-E

PCW

Respondent City of Kilgore

Policy Revision 2 (September 2002)

Case ID No. 39914

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102079985

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010201001, Chronic Biomonitoring Requirements: Freshwater, No. 3.b.3 and 24-Hour Acute Biomonitoring Requirements: Freshwater, No. 3.b.1

Violation Description Failed to timely submit the discharge monitoring report ("DMR") for whole effluent toxicity ("WET") at the intervals specified in the permit, as documented in a record review conducted on May 24, 2010. Specifically, the quarterly WET DMR for the period ending September 30, 2009 and the semiannual WET DMR for the period ending December 31, 2009 were not submitted by their respective due dates.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				x	1%

Matrix Notes 70% or more of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 259

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

Violation Base Penalty \$200

Two single events are recommended (one event for each DMR).

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$504

This violation Final Assessed Penalty (adjusted for limits) \$504

Economic Benefit Worksheet

Respondent City of Kilgore
Case ID No. 39914
Reg. Ent. Reference No. RN102079985
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	\$20	20-Oct-2009	16-Jun-2010	0.65	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit WET DMRs to the TCEQ. Date required is the date the WET DMRs were first due. Final date is the date the DMRs were submitted.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20

TOTAL

\$1

City of Kilgore
 TPDES Permit No. WQ0010201001
 Docket No. 2010-1013-MWD-E
 Case No. 39914

EFFLUENT VIOLATION TABLE							
Months	CBOD Daily Ave. Conc.	CBOD Daily Max. Conc.	CBOD Daily Ave. Loading	Flow 2 Hour Peak	DO Monthly Min.	TSS Daily Ave. Conc.	TSS Daily Ave. Loading
	Limit = 10 mg/L	Limit = 25 mg/L	Limit = 250 lbs/day	Limit = 5,555 gpm	Limit = 4 mg/L	Limit = 15 mg/L	Limit = 375 lbs/day
05/31/2009	c	c	c	6,875	c	c	c
09/30/2009	c	27	c	6,625	c	c	c
10/31/2009	c	c	357	9,514	c	c	377
12/31/2009	c	c	c	9,514	c	c	c
01/31/2010	c	c	c	5,694	c	c	c
02/28/2010	c	c	c	5,729	c	c	c
03/31/2010	13.08	26	404	c	3.5	18.4	599

ave. = average

conc. = concentration

max. = maximum

min. = minimum

gpm = gallons per minute

lbs/day = pounds per day

mg/L = milligrams per Liter

c = compliant

CBOD = carbonaceous biochemical oxygen demand

TSS = total suspended solids

DO = dissolved oxygen

Compliance History Report

Customer/Respondent/Owner-Operator: CN600676522 City of Kilgore Classification: AVERAGE Rating: 2.17
 Regulated Entity: RN102079985 CITY OF KILGORE WWTP Classification: AVERAGE Site Rating: 1.33
 ID Number(s):
 WASTEWATER PERMIT WQ0010201001
 WASTEWATER PERMIT TX0026557000
 WASTEWATER PERMIT TPDES0026557
 WASTEWATER PERMIT TX0026557
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER GJ02020
 WASTEWATER LICENSING LICENSE WQ0010201001
 STORMWATER PERMIT TXR05Q440
 SLUDGE REGISTRATION 23079
 Location: APPROXIMATELY 0.7 MILE EAST AND 0.4 MILE NORTH OF THE INTERSECTION OF UNITED STATES HIGHWAY 259 AND FARM-TO-MARKET ROAD 2204, KILGORE, GREGG COUNTY, TEXAS
 TCEQ Region: REGION 05 - TYLER
 Date Compliance History Prepared: June 15, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: June 15, 2005 to June 15, 2010

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.

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/17/2005	(421186)
2	07/13/2005	(442164)
3	08/18/2005	(442165)
4	09/16/2005	(442166)
5	10/18/2005	(471076)
6	11/14/2005	(471077)
7	12/15/2005	(471078)
8	12/29/2005	(471079)
9	02/24/2006	(471073)
10	03/16/2006	(471074)
11	04/17/2006	(471075)
12	06/28/2006	(465188)
13	08/24/2006	(530992)
14	09/14/2006	(522005)
15	09/14/2006	(522006)
16	09/14/2006	(522008)

17	09/16/2006	(522009)
18	10/04/2006	(530993)
19	10/09/2006	(522007)
20	10/13/2006	(522010)
21	11/13/2006	(546672)
22	11/17/2006	(546674)
23	11/21/2006	(517546)
24	12/13/2006	(546673)
25	02/12/2007	(546671)
26	03/12/2007	(578906)
27	04/05/2007	(578912)
28	04/17/2007	(578907)
29	05/10/2007	(578908)
30	06/12/2007	(578909)
31	07/09/2007	(578910)
32	08/08/2007	(578911)
33	09/10/2007	(602633)
34	10/08/2007	(602634)
35	11/12/2007	(620861)
36	12/11/2007	(620862)
37	01/16/2008	(614291)
38	02/07/2008	(673063)
39	02/21/2008	(679818)
40	03/07/2008	(673064)
41	04/17/2008	(673065)
42	05/09/2008	(691142)
43	06/16/2008	(691143)
44	07/14/2008	(683322)
45	07/15/2008	(691144)
46	08/11/2008	(712026)
47	09/11/2008	(712027)
48	09/25/2008	(712028)
49	09/25/2008	(712029)
50	11/10/2008	(720833)
51	11/11/2008	(728420)
52	12/08/2008	(728421)
53	02/06/2009	(751516)
54	03/11/2009	(751517)
55	04/09/2009	(751518)
56	05/08/2009	(769229)
57	05/26/2009	(769231)
58	06/05/2009	(769230)
59	09/14/2009	(807521)
60	09/24/2009	(807520)
61	10/08/2009	(807522)
62	11/06/2009	(807523)
63	11/17/2009	(807525)
64	12/07/2009	(807524)
65	01/29/2010	(789568)
66	02/05/2010	(807519)
67	02/18/2010	(791184)
68	06/04/2010	(824307)
69	06/10/2010	(825630)
70	06/15/2010	(825975)

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

Date	09/30/2005	(471076)	CN600676522		
Self	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	02/28/2006	(471074)	CN600676522		
Self	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	03/31/2006	(471075)	CN600676522		
Self	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	08/24/2006	(530992)	CN600676522		
Self	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Date	10/04/2006	(530993)	CN600676522		
Self	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Self	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Self	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Date	11/17/2006	(517546)	CN600676522		
Self	NO			Classification	Minor
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)				
Description:	Failure to provide adequate erosion controls.				
Self	NO			Classification	Minor
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)				
Description:	Failure of the permittee to construct and maintain structural controls.				
Date	12/31/2006	(546674)	CN600676522		
Self	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	(546671)	CN600676522		
Self	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	04/30/2007	(578908)	CN600676522		
Self	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	05/31/2007	(578909)	CN600676522		
Self	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	(578910)	CN600676522		
Self	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	07/31/2007	(578911)	CN600676522		
Self	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	12/31/2007	(578912)	CN600676522		
Self	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	02/21/2008	(679818)	CN600676522		
Self	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Self	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Date	02/29/2008	(673064)	CN600676522		
Self	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	03/31/2008	(673065)	CN600676522		
Self	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	(691142)	CN600676522		
Self	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	(691143)	CN600676522		
Self	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	(712027)	CN600676522		
Self	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	(728420)	CN600676522		
Self	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	11/10/2008	(720833)	CN600676522		
Self	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Date	11/30/2008	(728421)	CN600676522		
Self	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	03/31/2009	(751518)	CN600676522		
Self	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	05/15/2009	(745352)	CN600676522		
Self	NO			Classification	Moderate
Citation:	TWC Chapter 26 26.121				
Description:	Failure To Prevent Unauthorized Discharge.				
Date	05/31/2009	(769230)	CN600676522		
Self	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	09/30/2009	(807522)	CN600676522		
Self	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	10/31/2009	(807523)	CN600676522		
Self	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	12/31/2009	(807525)	CN600676522		
Self	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	01/31/2010	(807519)	CN600676522		
Self	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	02/28/2010		CN600676522		
Self	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	03/31/2010		CN600676522		
Self	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 KILGORE
RN102079985**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1013-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 the City of Kilgore ("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, represented by Mr. Robert Pressley of the law firm of Mathews & Freeland, L.L.P., appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 0.7 mile east and 0.4 mile north of the intersection of United States Highway 259 and Farm-to-Market Road 2204 in Kilgore, Gregg 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 June 8, 2010.
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 Twenty-Five Thousand Seven Hundred Four Dollars (\$25,704) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). Five Thousand One Hundred Forty Dollars (\$5,140) 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. Twenty Thousand Five Hundred Sixty-Four Dollars (\$20,564) 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 on June 16, 2010, the Respondent submitted the quarterly whole effluent toxicity ("WET") discharge monitoring report ("DMR") for the period ending September 30, 2009 and the semiannual WET DMR for the period ending December 31, 2009.
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 Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010201001 Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6 for Outfall 002, as documented during a record review conducted on May 24, 2010 and shown in the following table:

EFFLUENT VIOLATION TABLE							
Months	CBOD Daily Ave. Conc.	CBOD Daily Max. Conc.	CBOD Daily Ave. Loading	Flow 2 Hour Peak	DO Monthly Min.	TSS Daily Ave. Conc.	TSS Daily Ave. Loading
	Limit = 10 mg/L	Limit = 25 mg/L	Limit = 250 lbs/day	Limit = 5,555 gpm	Limit = 4 mg/L	Limit = 15 mg/L	Limit = 375 lbs/day
05/31/2009	c	c	c	6,875	c	c	c
09/30/2009	c	27	c	6,625	c	c	c
10/31/2009	c	c	357	9,514	c	c	377
12/31/2009	c	c	c	9,514	c	c	c
01/31/2010	c	c	c	5,694	c	c	c
02/28/2010	c	c	c	5,729	c	c	c
03/31/2010	13.08	26	404	c	3.5	18.4	599

ave. = average conc. = concentration max. = maximum min. = minimum
gpm = gallons per minute lbs/day = pounds per day mg/L = milligrams per Liter c = compliant
CBOD = carbonaceous biochemical oxygen demand TSS = total suspended solids DO = dissolved oxygen

- Failed to timely submit the DMR for WET at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010201001, Chronic Biomonitoring Requirements: Freshwater, No. 3.b.3 and 24-Hour Acute Biomonitoring Requirements: Freshwater, No. 3.b.1, as documented in a record review conducted on May 24, 2010. Specifically, the quarterly WET DMR for the period ending September 30, 2009 and the semiannual WET DMR for the period ending December 31, 2009 were not submitted by their respective due dates.

III. DENIALS

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

IV. ORDERING PROVISIONS

- 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: City of Kilgore, Docket No. 2010-1013-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, Twenty Thousand Five Hundred Sixty-Four Dollars (\$20,564) 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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Every six (6) months starting from the effective date of this Agreed Order, submit a progress report to the TCEQ describing the actions taken to facilitate compliance with the permitted effluent limitations; and
 - b. Within 730 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010201001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

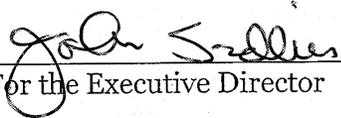
4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any 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.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the 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.
7. 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.
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. 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

Date 3/15/2011

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

Date 1/12/11

Jeffrey Howell
Name (Printed or typed)
Authorized Representative of
City of Kilgore

City Manager
Title

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

Attachment A
Docket Numbers: 2010-1013-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Kilgore
Penalty Amount:	Twenty Thousand Five Hundred Sixty-Four Dollars (\$20,564)
SEP Offset Amount:	Twenty Thousand Five Hundred Sixty-Four Dollars (\$20,564)
Type of SEP:	Custom
Location of SEP:	Gregg County

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

1. Project Description

A. Project

The Respondent shall hold two one-day events for the collection, recycling, or proper disposal of residential electronic waste ("E-waste") consisting of computers, cell phones, scanners and televisions; and residential universal waste ("U-waste") consisting of household batteries, florescent light bulbs and non-empty aerosol cans. The Respondent shall offer a designated drop-off location where the public can drop off materials for disposal or recycling at no cost to the citizens. The events will be advertised in a local newspaper to increase public awareness of and participation in the events.

The Respondent shall ensure that the events:

- are advertised to the public with the required enforcement statement;
- occur on a weekend during daylight hours;
- offer to the public a convenient drop-off location; and
- include recycling and proper disposal of electronics, household batteries, light bulbs, and non-empty aerosol cans.

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

The Respondent shall perform these events in accordance with all federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the events and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the events.

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

B. Environmental Benefit

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

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

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of wastes that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall perform the SEP in accordance with the schedule shown in the Performance Schedule Deliverable table below, and shall have completed the SEP in its entirety within one year following the effective date of this Agreed Order.

Days from Effective Order Date	Percentage of Project to Be Completed	Performance Schedule Deliverable
30	Begin	Notice of Commencement describing actions taken to begin project
90	1/4	Receive approval from TCEQ (and Bid Project, if applicable)
120	1/2	Receive approval from TCEQ for advertisement(s) and publishing
180	3/4	Provide notice of event date(s) to TCEQ;
365	Completion	Final completion of SEP with Final Report to be provided within 60 days of completion date, as described in Section 3.B., below.

3. Reporting

A. Progress Reports

The Respondent shall submit Progress Reports to the TCEQ SEP Coordinator according to the schedule provided in the Progress Report Deliverable table below.

Days from Effective Order Date	Progress Report Deliverable
30	Notice of Commencement describing actions being taken to begin project
90	Second Progress Report to provide report of actions taken to implement project.
120	Third Progress Report to provide report of actions taken to implement project.
210	Fourth Progress Report to provide report of actions taken to implement project.
280	Fifth Progress Report to provide report of actions taken to implement project.
365	Notice of SEP Completion, with Final Report to follow within 60 days of completion of project.

B. Final Report

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

1. A summary total of the amount of costs incurred;
2. An itemized list of expenditures and costs incurred;
3. Copies of invoices, paid receipts, cleared checks, and other verifying documentation must be included with the Final Report;
4. If Respondent requests to receive credit for overtime use of its own employees, time card records certified by a supervisor and confirmed by respondent's Payroll section will be required. Time cards will include first and last name of employee, rate of pay, and total number of hours worked;
5. Copies of a) proof of advertisement of the event (the advertisement must include the statement that the SEP was performed as a result of a TCEQ enforcement action); and b) proof of publication of invitation for (and selection of) competitive bids for the project, if applicable;
6. A statement of the quantifiable environmental benefits. The Respondent must quantify the environmental benefit of the project;
7. Map showing specific location(s) of the collection site(s);
8. Photographs of the project showing items being collected, counted and transported;
9. Manifests sufficient to show proof of proper disposal and/or recycling of the collected items. Sufficient documentation must be provided to show proof of proper disposal or recycling of the collected E-waste, and U-waste;

10. A count of the number and type(s) of items collected; i.e. number of computers, light bulbs, batteries, etc; and
11. Any additional information the Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A;

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

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

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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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