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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1714-MWD-E **TCEQ ID:** RN103137949 **CASE NO.:** 40567  
**RESPONDENT NAME:** City of San Augustine

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Located approximately 5,000 feet northeast of the intersection of United States Highway 96 and Farm-to-Market Road 147, San Augustine County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment system</p> <p><b>SMALL BUSINESS:</b> ___ Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 9, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Leroy Hughes, Mayor, City of San Augustine, 301 South Harrison Street, San Augustine, Texas 75972  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 4, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 14, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failed to comply with permitted effluent limits for ammonia nitrogen, flow, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010268001 Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$37,975</p> <p><b>Total Deferred:</b> \$7,595  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$30,380</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p><b>Compliance History Classifications:</b>            Person/CN - Average            Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility by August 31, 2010:</p> <p>a. Repaired and/or replaced the aerators;</p> <p>b. Reduced the accumulation of sludge and solids; and</p> <p>c. Returned to compliance with its permitted effluent limits.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)</p>

Additional ID No(s): WQ0010268001

**Attachment A**  
**Docket Number: 2010-1714-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of San Augustine

**Payable Penalty Amount:** Thirty Thousand Three Hundred Eighty Dollars (\$30,380)

**SEP Amount:** Thirty Thousand Three Hundred Eighty Dollars (\$30,380)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)- Water or Wastewater Treatment Assistance

**Location of SEP:** San Augustine County

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

**1. Project Description**

**A. Project**

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

**C. Minimum Expenditure**

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation and Development  
Areas, Inc.  
1716 Briarcrest Drive, Suite 507  
Bryan, Texas 77802-2700

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of San Augustine  
Agreed Order - Attachment A

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

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

**5. Publicity**

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

**6. Clean Texas Program**

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

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

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	18-Oct-2010	<b>Screening</b>	19-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	12-Jan-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of San Augustine
<b>Reg. Ent. Ref. No.</b>	RN103137949
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40567	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1714-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harvey Wilson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$15,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **195.0%** Enhancement **Subtotals 2, 3, & 7** **\$30,225**

Notes: Enhancement for 34 months of self reported effluent violations, one NOV with same/similar violations, and one prior 1660 Agreed Order with denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$3,875**

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

Total EB Amounts	\$3,797
Approx. Cost of Compliance	\$50,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$41,850**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **-9.3%** **Adjustment** **-\$3,875**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction in the penalty so that monthly self reported effluent violatios do not overly impact the penalty amount.

**Final Penalty Amount** **\$37,975**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$37,975**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$7,595**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$30,380**

**Screening Date** 19-Oct-2010

**Docket No.** 2010-1714-MWD-E

**PCW**

**Respondent** City of San Augustine

Policy Revision 2 (September 2002)

**Case ID No.** 40567

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN103137949

**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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	35	175%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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)** 195%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for 34 months of self reported effluent violations, one NOV with same/similar violations, and one prior 1660 Agreed Order with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 195%

Screening Date 19-Oct-2010

Docket No. 2010-1714-MWD-E

PCW

Respondent City of San Augustine

Policy Revision 2 (September 2002)

Case ID No. 40567

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103137949

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010268001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits as documented in a record review on October 4, 2010, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model and a site specific model were used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of these violations.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 5 152 Number of violation days

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

Violation Base Penalty \$12,500

Five monthly events are recommended for the months of October 2009, December 2009, January 2010, February 2010, and March 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$3,125

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

Notes

The Respondent returned to compliance with its permitted effluent limits by August 31, 2010.

Violation Subtotal \$9,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,797

Violation Final Penalty Total \$30,625

This violation Final Assessed Penalty (adjusted for limits) \$30,625

## Economic Benefit Worksheet

**Respondent** City of San Augustine  
**Case ID No.** 40567  
**Reg. Ent. Reference No.** RN103137949  
**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	\$40,000	31-Jul-2009	31-Aug-2010	1.08	\$145	\$2,893	\$3,038
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	31-Jul-2009	31-Aug-2010	1.08	\$36	\$723	\$759
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 repairing or replacing the aerators and conducting scoops to remove the accumulation of sludge and solids in the treatment plant. Date required is the date the violation was documented. Final Date was the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

**TOTAL**

\$3,797

**Screening Date** 19-Oct-2010  
**Respondent** City of San Augustine  
**Case ID No.** 40567  
**Reg. Ent. Reference No.** RN103137949  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Harvey Wilson

**Docket No.** 2010-1714-MWD-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

**Violation Number**   
**Rule Cite(s)**

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010268001 Effluent Limitations and Monitoring Requirements No. 1

**Violation Description**

Failed to comply with permitted effluent limits as documented in a record review on October 4, 2010, and shown in the attached table.

**Base Penalty**

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Harm		
	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**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="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

Three quarterly events are recommended for the quarters containing the months of July, September, and November of 2009, and April and May of 2010.

**Good Faith Efforts to Comply**

**25.0%** Reduction

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

Notes

The Respondent returned into compliance with its permitted effluent limits by August 31, 2010.

**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 San Augustine  
**Case ID No.** 40567  
**Reg. Ent. Reference No.** RN103137949  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation no. 1

### 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 \$0

**TOTAL** \$0

City of San Augustine  
Docket No. 2010-1714-MWD-E  
RN103137949; TPDES Permit No. WQ0010268001

Violation Table

Monitoring Period	Flow Daily Avg. Maximum 0.9 MGD	Ammonia Nitrogen Daily Avg. Conc. 2.0 mg/L	Ammonia Nitrogen Daily Max Conc. 10 mg/L	Ammonia Nitrogen Daily Avg. Loading 15 lbs/day	Total Suspended Solids Daily Avg. Conc. 15 mg/L	Total Suspended Solids Daily Avg. Loading, 113 lbs/day
July 2009	C	3.648	16.0	C	C	C
September 2009	C	10.16	17.1	29.456	C	C
October 2009	C	6.525	10.6	40.813	C	137.394
November 2009	C	8.15	11.0	59.83	C	C
December 2009	0.963968	6.96	C	49.704	15.96	132.771
January 2010	C	8.65	C	46.565	20.5	C
February 2010	1.053536	6.09	C	58.315	21/5	214.576
March 2010	C	8.44	13.0	51.506	C	C
April 2010	C	15.0	16.0	60.847	C	C
May 2010	C	17.0	20.0	62.283	C	C
Avg. = average    MGD = million gallons per day    Conc.= concentration    mg/L = milligrams per Liter lbs/day = pounds per day    c = compliant						



# Compliance History Report

Customer/Respondent/Owner-Operator: CN600630289 City of San Augustine Classification: AVERAGE Rating: 2.28  
Regulated Entity: RN103137949 CITY OF SAN AUGUSTINE Classification: AVERAGE Site Rating: 2.51  
ID Number(s): WASTEWATER PERMIT WQ0010268001  
WASTEWATER EPA ID TX0022349  
WASTEWATER LICENSING LICENSE WQ0010268001  
Location: APPROXIMATELY 5,000 FEET NORTHEAST OF THE  
INTERSECTION OF UNITED STATES HIGHWAY 96  
AND FARM-TO-MARKET ROAD 147 IN SAN  
AUGUSTINE COUNTY, TEXAS  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: October 19, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 19, 2005 to October 19, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Harvey Wilson Phone: 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: 9/1/2010 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 08/15/2008

ADMINORDER 2007-1407-MWD-E

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

- 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.)

(348888)  
1 08/20/2008  
2 03/13/2006 (450493)  
3 02/27/2006 (469442)  
4 03/22/2006 (469443)

5	10/25/2005	(469444)
6	11/15/2005	(469445)
7	12/27/2005	(469446)
8	04/21/2006	(498891)
9	05/23/2006	(498892)
10	06/19/2006	(498893)
11	07/21/2006	(520905)
12	08/24/2006	(520906)
13	09/25/2006	(520907)
14	07/11/2006	(520908)
15	12/18/2006	(531089)
16	03/16/2007	(543427)
17	08/21/2007	(569902)
18	02/23/2007	(576833)
19	03/22/2007	(576834)
20	04/27/2007	(576835)
21	05/24/2007	(576836)
22	06/20/2007	(576837)
23	10/19/2006	(576838)
24	11/20/2006	(576839)
25	12/27/2006	(576840)
26	01/29/2007	(576841)
27	07/20/2007	(602027)
28	08/24/2007	(602028)
29	09/24/2007	(602029)
30	10/22/2007	(620041)
31	11/28/2007	(620042)
32	12/27/2007	(620043)
33	02/25/2008	(672481)
34	01/21/2008	(672482)
35	04/04/2008	(690426)
36	04/30/2008	(690427)
37	05/27/2008	(690428)
38	06/25/2008	(711261)
39	07/23/2008	(711262)
40	08/25/2008	(711263)
41	09/25/2008	(711264)
42	02/13/2009	(726492)
43	02/20/2009	(726511)
44	10/27/2008	(727856)
45	11/24/2008	(727857)
46	06/17/2009	(745930)
47	02/19/2009	(750757)
48	01/02/2009	(750758)
49	01/30/2009	(750759)

50	04/01/2009	(768694)
51	04/22/2009	(768695)
52	05/28/2009	(768696)
53	10/05/2009	(776452)
54	11/03/2009	(780880)
55	02/16/2010	(805894)
56	06/26/2009	(805895)
57	07/28/2009	(805896)
58	09/17/2009	(805897)
59	10/29/2009	(805898)
60	11/04/2009	(805899)
61	12/02/2009	(805900)
62	12/23/2009	(805901)
63	01/25/2010	(805902)
64	03/24/2010	(831313)
65	04/23/2010	(831314)
66	06/01/2010	(845085)
67	06/18/2010	(846400)
68	10/15/2010	(866369)

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

Date:	11/30/2005	(469446)	CN600630289
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:	12/31/2005	(520908)	CN600630289
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	(469443)	CN600630289
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:	03/10/2006	(450493)	CN600630289
Self	NO		Classification Moderate
Citation:	SP III G PERMIT		
Description:	Failure by the City of San Augustine to submit an annual sludge report to the TCEQ Region 10 office and TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.		
Self	NO		Classification Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self	NO		Classification Minor
Citation:	OpR1 PERMIT		
Description:	Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self	NO		Classification Minor
Citation:	OpR 1 PERMIT		

Description: Failure by the City of San Augustine to provide safety equipment for the gas chlorination facilities.

Failure by the City of San Augustine to provide safety equipment for the gas chlorination facilities.

Self NO Classification Moderate

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

PC 2g PERMIT

TWC Chapter 26 26.121(a)(1)

Description: Failure by the City of San Augustine to prevent unauthorized discharges into or adjacent to the waters of the state.

Self NO Classification Minor

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

M&RR 5 PERMIT

Description: Failure by the City of San Augustine to have the backflow prevention device and the electronic flow measurement device calibrated or tested annually.

Self NO Classification Minor

Citation: M&RR 2 PERMIT

Description: Failure by the City of San Augustine to preform the total chlorine residual analysis according to the manufacturer's recommendations.

Self Report? NO Classification Minor

Citation: M&RR 2 PERMIT

Description: Failure by the City of San Augustine to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO Classification Minor

Citation: M&RR 2 PERMIT

Description: Failure by the City of San Augustine to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO Classification Minor

Citation: OpR 1 PERMIT

Description: Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Moderate

Citation: FEL&MR 1 PERMIT

Description: Failure by the City of San Augustine to discharge effluent that is compliant with permitted limitations.

Self Report? NO Classification Moderate

Citation: FEL&MR 1 and 2 PERMIT

Description: Failure by the City of San Augustine to discharge effluent in compliance with the permitted effluent limitations.

Self Report? NO Classification Moderate

Citation: FEL&MR 4 PERMIT

Description: Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date 10/31/2006 (576839) CN600630289

Self Report? YES Classification Moderate

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

TWC Chapter 26 26.121(a)

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

Date 11/30/2006 (576840) CN600630289

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 (576841) CN600630289

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	(576833)	CN600630289		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	02/28/2007	(576834)	CN600630289		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	03/31/2007	(576835)	CN600630289		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	04/30/2007	(576836)	CN600630289		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	05/31/2007	(576837)	CN600630289		
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	(602027)	CN600630289		
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	(602028)	CN600630289		
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	08/31/2007	(602029)	CN600630289		
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	02/29/2008	(690426)	CN600630289		
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	03/31/2008	(690427)	CN600630289		
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	(711261)	CN600630289		
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	(727856)	CN600630289		
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	(727857)	CN600630289
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	02/28/2009	(768694)	CN600630289
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	03/31/2009	(768695)	CN600630289
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	04/30/2009	(768696)	CN600630289
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	05/31/2009	(805895)	CN600630289
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	06/30/2009	(805896)	CN600630289
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	07/31/2009	(805897)	CN600630289
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	09/30/2009	(805899)	CN600630289
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	10/31/2009	(805900)	CN600630289
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	11/30/2009	(805901)	CN600630289
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	12/31/2009	(805902)	CN600630289
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	01/31/2010	(805894)	CN600630289	
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	02/28/2010	(831313)	CN600630289	
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	03/31/2010	(831314)	CN600630289	
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	04/30/2010	(845085)	CN600630289	
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	05/31/2010	(846400)	CN600630289	
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 SAN AUGUSTINE  
RN103137949**

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

**AGREED ORDER  
DOCKET NO. 2010-1714-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 San Augustine ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment system located approximately 5,000 feet northeast of the intersection of United States Highway 96 and Farm-to-Market Road 147 in San Augustine 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 October 19, 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 Thirty-Seven Thousand Nine Hundred Seventy-Five Dollars (\$37,975) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Seven Thousand Five Hundred Ninety-Five Dollars (\$7,595) 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. Thirty Thousand Three Hundred Eighty Dollars (\$30,380) of the administrative penalty shall be conditionally offset by the Respondent's completion of a Supplement Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility by August 31, 2010:
  - a. Repaired and/or replaced the aerators;
  - b. Reduced the accumulation of sludge and solids; and
  - c. Returned to compliance with its permitted effluent limits.
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 failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010268001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 4, 2010, and shown in the table below:

Violation Table

Monitoring Period	Flow Daily Avg. Maximum 0.9 MGD	Ammonia Nitrogen Daily Avg. Conc. 2.0 mg/L	Ammonia Nitrogen Daily Max Conc. 10 mg/L	Ammonia Nitrogen Daily Avg. Loading 15 lbs/day	Total Suspended Solids Daily Avg. Conc. 15 mg/L	Total Suspended Solids Daily Avg. Loading, 113 lbs/day
July 2009	C	3.648	16.0	C	C	C
September 2009	C	10.16	17.1	29.456	C	C
October 2009	C	6.525	10.6	40.813	C	137.394
November 2009	C	8.15	11.0	59.83	C	C
December 2009	0.963968	6.96	C	49.704	15.96	132.771
January 2010	C	8.65	C	46.565	20.5	C
February 2010	1.053536	6.09	C	58.315	21/5	214.576
March 2010	C	8.44	13.0	51.506	C	C
April 2010	C	15.0	16.0	60.847	C	C
May 2010	C	17.0	20.0	62.283	C	C
Avg. = average MGD = million gallons per day Conc.= concentration mg/L = milligrams per Liter lbs/day = pounds per day c = compliant						

**III. DENIALS**

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

**IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of San Augustine, Docket No. 2010-1714-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, Thirty Thousand Three Hundred Eighty Dollars (\$30,380) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph

exclusively, the terms “electronic transmission”, “owner”, “person”, “writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

City of San Augustine  
DOCKET NO. 2010-1714-MWD-E  
Page 6

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Zedler  
For the Executive Director

4/21/2011  
Date

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

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

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

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

Gray Meyer  
Signature

4/13/11  
Date

LEROY HUGHES  
Name (Printed or typed)  
Authorized Representative of  
City of San Augustine

Gray Meyer  
Title

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

**Attachment A**  
**Docket Number: 2010-1714-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of San Augustine

**Payable Penalty Amount:** Thirty Thousand Three Hundred Eighty Dollars (\$30,380)

**SEP Amount:** Thirty Thousand Three Hundred Eighty Dollars (\$30,380)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)- Water or Wastewater Treatment Assistance

**Location of SEP:** San Augustine County

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

**1. Project Description**

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

**C. Minimum Expenditure**

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation and Development  
Areas, Inc.  
1716 Briarcrest Drive, Suite 507  
Bryan, Texas 77802-2700

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of San Augustine  
Agreed Order – Attachment A

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

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

**5. Publicity**

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

**6. Clean Texas Program**

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

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

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