Executive Summary – Enforcement Matter – Case No. 40699
City of Azle
RN101609873
Docket No. 2010-1847-MWD-E

Order Type:
Findings Agreed Order
Findings Order Justification:
Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation/s.
Media:
MWD
Small Business:
No
Location(s) Where Violation(s) Occurred:
Ashcreek Plant, 816 Park Road, between State Highway 199 (Jacksboro Highway) and Old Ten Mile-Azle Road west of Eagle Mountain Lake on Ash Creek, Tarrant County
Type of Operation:
Wastewater treatment facility with an associated collection system
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: April 29, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $37,160
Amount Deferred for Expedited Settlement: $0
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $0
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $37,160
Name of SEP: Azle Collection Event & Ash Creek and Reynolds Branch Creek Cleanup
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: Yes
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40699
City of Azle
RN101609873
Docket No. 2010-1847-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: September 16, 2010
Date(s) of NOE(s): October 27, 2010

Violation Information

1. Failed to prevent unauthorized discharges into water in the state from the collection system [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011183003 Permit Condition 2.g.].

2. Failed to comply with permitted effluent limits for ammonia nitrogen, flow, and dissolved oxygen [TPDES Permit No. WQ0011183003 Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121].

3. Failed to properly maintain the clarifier units [TPDES Permit No. WQ0011183003; Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

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

a. By October 6, 2010, leveled the clarifier weirs to prevent short-circuiting; and

b. Conducted the following corrective measures for the unauthorized discharges: cleared blockage, replaced fuses, restored power, repaired pump, repaired main, repaired breaker, repaired relay, used a vacuum truck, and cleaned and disinfected area.

Technical Requirements:

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

2) Within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011183003, 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 limitations.

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
Respondent: Mr. Craig Lemin, City Manager, City of Azle, 613 Southeast Parkway, Azle, Texas 76020
Mr. Rick White, Utility Manager, City of Azle, 613 Southeast Parkway, Azle, Texas 76020
Respondent's Attorney: N/A

Attachment A
Docket Numbers: 2010-1847-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Azle
Penalty Amount:	Thirty-Seven Thousand One Hundred Sixty Dollars ($37,160)
SEP Offset Amount:	Thirty-Seven Thousand One Hundred Sixty Dollars ($37,160)

Project 1: Azle Collection Event

Type of SEP:	Custom (Pre-approved Concept)
Project Name:	Azle Collection Event
Location of SEP:	Tarrant County

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Type of SEP:	Custom (Pre-approved Concept)
Project Name:	Ash Creek and Reynolds Branch Creek Cleanup
Location of SEP:	Tarrant County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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 projects in accordance with the terms of this Attachment A.

1. Project Descriptions

A. Project Information

Project 1: Azle Collection Event

Respondent shall hold a one-day event for the collection, recycling, or proper disposal of concrete, logs, furniture, car parts, and large, bulky municipal household waste. Respondent shall offer a supervised drop-off collection site where the public can drop off materials for disposal or recycling at no cost to the citizens. The event will be advertised in a local newspaper to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6. *Publicity*, below.

Respondent shall ensure that the event:

- is advertised to the public; and includes the publicity statement that the project is being performed as a Supplemental Environmental Project;
- occurs on a specified day of the weekend during daylight hours; and
- offers to the public a convenient drop-off location.

Respondent shall properly collect, transport, dispose of, or recycle the collected materials. The SEP Offset Amount will be used for heavy equipment such as roll-off bins, vehicles, and trailers; public announcements of the event; and costs of proper disposal and recycling.

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Respondent shall perform a waterway cleanup project along Ash Creek and Reynolds Branch Creek, in Tarrant County, Texas. For the Ash Creek cleanup, the project will be performed beginning at Stewart Street and proceed to Ash Creek Park. For Reynolds Branch Creek cleanup, the cleanup location will begin at Silver Creek Road and proceed to Ash Creek. The project will remove illegally discarded bulky solid waste including, but not limited to abandoned tires and tire rims, various car parts, concrete, logs, furniture, and trash. Respondent shall advertise the cleanup project with the required enforcement statement in the local newspaper.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the projects. No portion of the SEP Offset Amount shall be spent on administrative costs. Respondent shall perform the SEP in accordance with all federal, state, and local laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that there is no prior commitment to perform the projects, and that the projects are being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Project 1: Azle Collection Event

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

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

The SEP will provide a discernible environmental benefit by improving the water quality of Ash Creek and Reynolds Branch Creek. This SEP will provide for the proper disposal of debris and waste and by reducing the associated health threats of illegally dumped debris and waste.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the projects and shall comply with all other provisions of this Attachment A. Respondent understands that it may cost more than the SEP Offset Amount to complete the projects.

2. Performance Schedule

Project 1: Azle Collection Event

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the project, and shall complete the project in its entirety within 365 days after the effective date of this Agreed Order.

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the project, and shall complete the SEP in its entirety within 365 days following the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Reports

Project 1: Azle Collection Event

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Table 4: Reporting Schedule for Project 1: Collection Event

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions being taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project

Days from Effective Order Date	Information Required
365	Notice of SEP project completion

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Table 5: Reporting Schedule for Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions being taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project
365	Notice of SEP project completion

B. Final Report

Project 1: Azle Collection Event

Within 60 days after completion of Project 1. Azle Collection Event, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which includes:

a. A summary total of the amount of costs incurred;
b. An itemized list of expenditures and costs incurred to complete the project;

c. Copies of invoices, paid receipts, and cleared checks, corresponding to the Azle Collection Event;
d. Copies of a) proof of advertisement of the event (the advertisement must include the enforcement 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;
e. A certified and notarized statement of the quantifiable environmental benefits produced by the project;
f. A map identifying the location of the collection site(s). The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
g. Dated photographs of the project showing the collected items;
h. A count of each type of item collected; i.e. number of tires, pounds of concrete, yards of brush, etc.;
i. Manifests sufficient to show proof of proper disposal and/or recycling of all of the collected items;
j. Any additional information and supporting documentation to demonstrate completion of the project in compliance with the SEP agreement.

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Within 60 days after completion of Project 2. Ash Creek and Reynolds Branch Creek Cleanup, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which includes:

a. A summary total of the amount of costs incurred;
b. An itemized list of expenditures and costs incurred to complete the project;
c. Copies of invoices, paid receipts, and cleared checks, corresponding to the Ash Creek and Reynolds Branch Creek Cleanup;
d. Copies of a) proof of advertisement of the event (the advertisement must include the enforcement 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;
e. A certified and notarized statement of the quantifiable environmental benefits produced by the project;
f. A map identifying the locations of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify the locations of the completed project;
g. Dated photographs of the project showing before and after the cleanup of creeks;
h. A count of each type of item collected; i.e. number of tires, pounds of metal, pounds of trash, yards of brush, etc.;
i. Manifests sufficient to show proof of proper disposal and/or recycling of all of the collected items;

j. Any additional information and supporting documentation to demonstrate completion of the project in compliance with this SEP agreement.

C. Address

Respondent shall submit all reports and supporting documentation required by this Attachment A and any requested additional information to the following address:

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

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

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

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

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

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must also clearly state that **the projects were performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include, but are not limited to advertising, public relations, and press releases.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other 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	1-Nov-2010				
PCW	19-Nov-2010	Screening	12-Nov-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Azle		
Reg. Ent. Ref. No.	RN101609873		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40699	No. of Violations	1
Docket No.	2010-1847-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$16,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **102.0%** Enhancement — *Subtotals 2, 3, & 7* **$16,320**

Notes: Enhancement for 13 months of self-reported effluent violations, two NOVs for same/similar violations, one NOV with dissimilar violations, and one Order without denial language.

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* **$4,000**

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

Total EB Amounts $441
Approx. Cost of Compliance $5,300

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$28,320**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-28.5%** — *Adjustment* **-$8,080**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction recommended to offset any discharges of 50 gallons or less.

Final Penalty Amount **$20,240**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$20,240**

DEFERRAL **0.0%** Reduction — *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$20,240**

Screening Date 12-Nov-2010 **Docket No.** 2010-1847-MWD-E **PCW**

Respondent City of Azle

Case ID No. 40699

Reg. Ent. Reference No. RN101609873

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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 (*number of NOVs meeting criteria*)	15	75%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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

Adjustment Percentage (Subtotal 2) 102%

>> 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 13 months of self-reported effluent violations, two NOVs for same/similar violations, one NOV with dissimilar violations, and one Order without denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 102%

Screening Date 12-Nov-2010 **Docket No.** 2010-1847-MWD-E **PCW**

Respondent City of Azle *Policy Revision 2 (September 2002)*

Case ID No. 40699 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101609873

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

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. WQ0011183003 Permit Condition 2.g.

Violation Description Failed to prevent unauthorized discharges into water in the state from the collection system. See attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 16 155 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $16,000

Sixteen single events are recommended (one event for each discharge).

Good Faith Efforts to Comply

25.0% Reduction $4,000

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

Notes: The Respondent returned to compliance by August 6, 2010.

Violation Subtotal $12,000

Economic Benefit (EB) for this violation

Estimated EB Amount $440

Statutory Limit Test

Violation Final Penalty Total $20,240

This violation Final Assessed Penalty (adjusted for limits) $20,240

Economic Benefit Worksheet

Respondent City of Azle
Case ID No. 40699
Reg. Ent. Reference No. RN101609873
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)	$5,000	2-Nov-2008	6-Aug-2010	1.76	$440	n/a	$440

Notes for DELAYED costs: The estimated cost to make structural and equipment repairs, clean blocked lines and clean and disinfect areas. Date required is the date of the first unauthorized discharge. Final date is the date of compliance.

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance $5,000

TOTAL $440

City of Azle
2010-1847-MWD-E

Summary of the Unauthorized Discharges				
Date	**Gallons**	**Location of Discharge**	**Cause**	**Receiving Water**
11/02/2008	50	318 Beverly	Blockage	Street
11/14/2008	200	300 Charles St.	Blockage	Drainage ditch
12/06/ 2008	400	600 Block of Lighthouse Ct.	Equipment failure	Eagle Mountain Lake
01/18/2009	500	300 Charles St.	Power Outage	Bar Ditch
01/29/2009	250	560 Harbor Circle Dr.	Grease	Eagle Mountain Lake
03/20/2009	700	824 Park St.	Blockage	Ground
04/26/2009	200	1100 Sportsman Park Dr.	Equipment failure	Eagle Mountain Lake
04/28/2009	300	824 Park St.	Structural failure	Contained
05/16/2009	50	256 Mountain View (Charles St. lift station)	Equipment failure	Yard
06/15/2009	300	256 Mountain View	Equipment failure	Ground
12/10/2009	50	Jacksboro Hwy. lift Station	Equipment failure	Ground
03/03/2010	150	256 Mountain View	Equipment failure	Backyard
05/21/2010	1500	1400 S.E. Pkwy.	Blockage	Drainage ditch
05/25/2010	400	824 Park Street	Structural failure	Ground
07/11/2010	50	1109 Carpenter	Unknown	Backyard
08/06/2010	400	300 Lakeside	Equipment failure	Manhole to drainage ditch

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	1-Nov-2010				
PCW	19-Nov-2010	Screening	12-Nov-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Azle		
Reg. Ent. Ref. No.	RN101609873		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40699	No. of Violations	2
Docket No.	2010-1847-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$8,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **102.0%** Enhancement — *Subtotals 2, 3, & 7* **$8,670**

Notes: Enhancement for 13 months of self-reported effluent violations, two NOVs for same/similar violations, one NOV with dissimilar violations, and one Order without denial language.

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* **$250**

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

Total EB Amounts $418
Approx. Cost of Compliance $10,600
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$16,920**

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$16,920**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$16,920**

DEFERRAL — **0.0%** Reduction — *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$16,920**

Screening Date 12-Nov-2010 **Docket No.** 2010-1847-MWD-E **PCW**

Respondent City of Azle

Case ID No. 40699

Reg. Ent. Reference No. RN101609873

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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 (*number of NOVs meeting criteria*)	15	75%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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

Adjustment Percentage (Subtotal 2) 102%

>> 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 13 months of self-reported effluent violations, two NOVs for same/similar violations, one NOV with dissimilar violations, and one Order without denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 102%

Screening Date 12-Nov-2010 **Docket No.** 2010-1847-MWD-E **PCW**

Respondent City of Azle *Policy Revision 2 (September 2002)*

Case ID No. 40699 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101609873

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) TPDES Permit No. WQ0011183003 Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121

Violation Description Failed to comply with permitted effluent limits, as documented during an investigation conducted on September 16, 2010. See 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 ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Dissolved oxygen and flow 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 $7,500

$2,500

Violation Events

Number of Violation Events 3 | 92 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $7,500

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

Good Faith Efforts to Comply

0.0% Reduction $0

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

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

Violation Subtotal $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $416

Statutory Limit Test

Violation Final Penalty Total $15,150

This violation Final Assessed Penalty (adjusted for limits) $15,150

Economic Benefit Worksheet

Respondent City of Azle
Case ID No. 40699
Reg. Ent. Reference No. RN101609873
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$10,000	31-Oct-2010	31-Aug-2011	0.83	$416	n/a	$416

Notes for DELAYED costs: The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the month the first non-compliant excursion was documented. 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 $10,000

TOTAL $416

Screening Date	12-Nov-2010	**Docket No.** 2010-1847-MWD-E	**PCW**
Respondent	City of Azle		*Policy Revision 2 (September 2002)*
Case ID No.	40699		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101609873		
Media [Statute]	Water Quality		
Enf. Coordinator	Cheryl Thompson		
Violation Number	2		
Rule Cite(s)	TPDES Permit No. WQ0011183003 Operational Requirements No. 1, and 30 Tex. Admin. Code § 305.125(1) and (5)		
Violation Description	Failed to properly maintain the clarifier units. Specifically, the weirs on clarifier no. 3 were uneven resulting in short-circuiting.		

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential			x

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 20 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction — $250

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

Notes: The Respondent returned to compliance by October 6, 2010.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $1,770

This violation Final Assessed Penalty (adjusted for limits) $1,770

Economic Benefit Worksheet

Respondent City of Azle
Case ID No. 40699
Reg. Ent. Reference No. RN101609873
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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)	$300	16-Sep-2010	6-Oct-2010	0.05	$1	n/a	$1

Notes for DELAYED costs Estimated cost to level clarifier weirs to prevent short-circuiting. Date required is the investigation date. Final date is the date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance $300

TOTAL $1

Effluent Limit Violation Table

Respondent	City of Azle
ID Number(s)	TPDES Permit No. WQ0011183003
Docket Number	2010-1847-MWD-E, Case No. 40699
Enf. Coordinator	Cheryl Thompson

Corresponds to Violation Number: 2

								EFFLUENT PARAMETER
								Permit Limit
	Flow	**Total Ammonia Nitrogen Daily Average Concentration**	**Total Ammonia Nitrogen Daily Maximum Loading**	**Dissolved Oxygen Grab Minimum**				
Month/Year	**.941 MGD**	**2 mg/L**	**16 lbs/day**	**6.0 mg/L**				
October 2009	**0.964**	**2.474**	**18.5**	**c**				
May 2010	**c**	**2.869**	**18.704**	**c**				
September 16, 2010	**c**	**c**	**c**	**5.9**				

milligrams per liter = mg/L
compliant = c
million gallons per day = MGD
pounds per day = lbs/day
September 16, 2010= Grab sample taken during investigation

Compliance History

Customer/Respondent/Owner-Operator:	CN600244032	City of Azle	Classification: AVERAGE	Rating: 1.67
Regulated Entity:	RN101609873	ASH CREEK PLANT	Classification: AVERAGE	Site Rating: 0.71

ID Number(s):

WASTEWATER	PERMIT	WQ0011183003
WASTEWATER	EPA ID	TX0023116
WASTEWATER	PERMIT	WQ0011183001
WASTEWATER	EPA ID	TX0012124
WASTEWATER LICENSING	LICENSE	WQ0011183003

Location: Located at 816 Park Road, between State Highway 199 (Jacksboro Highway) and Old Ten Mile-Azle Road west of Eagle Mountain Lake on Ash Creek in Tarrant County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: November 22, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 19, 2005 to November 19, 2010

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

Name: Cheryl Thompson Phone: (817) 588-5886

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 8/29/2008 ADMIN ORDER 2007-1798-MLM-E

Citation: 30 Tex. Admin. Code § 305.125(1)
Tex. Water Code § 26.121(a)
Rqmt Prov: Effluent Limitations and Monitoring Rqmts Permit

Description: Failed to prevent unauthorized Discharges and Failed to comply with permitted effluent limitations

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	05/31/2006	
2	05/25/2006	(466534)
3	02/24/2006	(469864)
4	03/16/2006	(469865)
5	04/17/2006	(469866)
6	12/20/2005	(469869)
7	01/23/2006	(469870)
8	05/22/2006	(499092)
9	06/19/2006	(499093)
10	10/16/2006	(512402)
11	07/17/2006	(521139)
12	07/17/2006	(521140)
13	09/18/2006	(545635)
14	10/16/2006	(545636)
15	11/16/2006	(545637)
16	12/15/2006	(545638)
17	01/15/2007	(545639)
18	02/20/2007	(577320)

19	03/19/2007	(577321)
20	04/23/2007	(577322)
21	05/24/2007	(577323)
22	06/21/2007	(577324)
23	06/21/2007	(577325)
24	10/08/2007	(595640)
25	08/22/2007	(602157)
26	12/18/2007	(612268)
27	09/21/2007	(620270)
28	10/19/2007	(620271)
29	11/16/2007	(620272)
30	12/20/2007	(620273)
31	02/22/2008	(672622)
32	03/25/2008	(672623)
33	01/21/2008	(672624)
34	06/15/2008	(681194)
35	04/18/2008	(690612)
36	05/21/2008	(690613)
37	06/20/2008	(690614)
38	06/20/2008	(690615)
39	08/22/2008	(700511)
40	10/23/2008	(706115)
41	12/03/2008	(709843)
42	08/14/2008	(711456)
43	09/17/2008	(711457)
44	09/15/2008	(711458)
45	09/17/2008	(711459)
46	11/20/2008	(727999)
47	12/22/2008	(728000)
48	03/05/2009	(737746)
49	02/20/2009	(750904)
50	03/23/2009	(750905)
51	03/23/2009	(750906)
52	03/23/2009	(750907)
53	08/11/2009	(765284)
54	05/21/2009	(768855)
55	12/10/2009	(785343)
56	12/28/2009	(827806)
57	06/21/2010	(846449)
58	07/22/2010	(861020)
59	10/27/2010	(864153)
60	08/20/2010	(867041)
61	09/20/2010	(874088)

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

Date: 10/13/2006 (512402) CN600244032
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet permit limit for total chlorine residual (TCR).

Date: 02/28/2007 (577321) CN600244032
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 (577322) CN600244032
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 (577323) CN600244032
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 (577324) CN600244032
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2007 (602157) CN600244032
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 (620270) CN600244032
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: 01/31/2008 (672622) CN600244032
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 (672623) CN600244032
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 (690612) CN600244032
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 (690614) CN600244032
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: 10/24/2008 (706115) CN600244032
Self Report? NO Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)
2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)
2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)

30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)
WQ011183-003 PERMIT
Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with the Interim I daily average flow limit of 0.941 MGD
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)
WQ11183-003 PERMIT
Description: Failure to maintain treatment unit.
Date 01/31/2009 (750904) CN600244032
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 CN600244032
Self Report? Yes Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: Failure to meet the limit for one or more permit parameter
Date 12/28/2009 CN600244032
Self Report? No Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/31/2010 CN600244032
Self Report? Yes Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
CITY OF AZLE	**§**	
RN101609873	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1847-MWD-E

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 Azle ("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 presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility with an associated collection system located at 816 Park Road, between State Highway 199 (Jacksboro Highway) and Old Ten Mile-Azle Road west of Eagle Mountain Lake on Ash Creek in Tarrant County, Texas (the "Facility").

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

3. During an investigation on September 16, 2010, TCEQ staff documented unauthorized discharges of wastewater from the collection system as shown in the table below:

Summary of the Unauthorized Discharges				
Date	**Gallons**	**Location of Discharge**	**Cause**	**Discharge Point**
11/02/2008	50	318 Beverly	Blockage	Street
11/14/2008	200	300 Charles St.	Blockage	Drainage ditch
12/06/ 2008	400	600 Block of Lighthouse Ct.	Equipment failure	Eagle Mountain Lake
01/18/2009	500	300 Charles St.	Power Outage	Bar Ditch
01/29/2009	250	560 Harbor Circle Dr.	Grease	Eagle Mountain Lake
03/20/2009	700	824 Park St.	Blockage	Ground
04/26/2009	200	1100 Sportsman Park Dr.	Equipment failure	Eagle Mountain Lake
04/28/2009	300	824 Park St.	Structural failure	Contained
05/16/2009	50	256 Mountain View (Charles St. lift station)	Equipment failure	Yard
06/15/2009	300	256 Mountain View	Equipment failure	Ground
12/10/2009	50	Jacksboro Hwy. lift Station	Equipment failure	Ground
03/03/2010	150	256 Mountain View	Equipment failure	Backyard
05/21/2010	1500	1400 S.E. Pkwy.	Blockage	Drainage ditch
05/25/2010	400	824 Park Street	Structural failure	Ground
07/11/2010	50	1109 Carpenter	Unknown	Backyard
08/06/2010	400	300 Lakeside	Equipment failure	Manhole to drainage ditch

4. During an investigation on September 16, 2010, TCEQ staff documented that the Respondent exceeded permitted effluent limits as shown in the table below:

	Flow	Ammonia Nitrogen Daily Average Concentration	Ammonia Nitrogen Daily Maximum Loading	Dissolved Oxygen Grab Minimum
Month/Year	.941 MGD	2 mg/L	16 lbs/day	6.0 mg/L
October 2009	0.964	2.474	18.5	c
May 2010	c	2.869	18.704	c
September 16, 2010	c	c	c	5.90

milligrams per liter = mg/L
compliant = c
MGD= million gallons per day
lbs/day = pounds per day
September 16, 2010=Grab sample taken during investigation

5. During an investigation on September 16, 2010, TCEQ staff documented that the Respondent did not adequately maintain the clarifier units. Specifically, the weirs on clarifier no. 3 were uneven resulting in short-circuiting.

6. The Respondent received notice of the violations on November 2, 2010.

7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

   a. By October 6, 2010, leveled the clarifier weirs to prevent short-circuiting; and

   b. Conducted the following corrective measures for the unauthorized discharges:

Date	Corrective Action
11/02/2008	Cleared blockage; cleaned and disinfected area.
11/14/2008	Cleared blockage; cleaned and disinfected area.
12/06/ 2008	Replace fuse; cleaned and disinfected area.
01/18/2009	Restored power; cleaned and disinfected area.
01/29/2009	Cleared blockage; cleaned and disinfected area.
03/20/2009	Cleared blockage; cleaned and disinfected area.
04/26/2009	Repaired pump; cleaned and disinfected area.
04/28/2009	Repaired main; cleaned and disinfected area.

Date	Corrective Action
05/16/2009	Repaired breaker; cleaned and disinfected area.
06/15/2009	Repaired relay; clean and disinfected area.
12/10/2009	Cleaned and disinfected area; replaced fuses and contact block.
03/03/2010	Cleaned and disinfected area; turned pumps to auto.
05/21/2010	Cleared blockage; cleaned and disinfected area.
05/25/2010	Repaired damage; cleaned and disinfected area.
07/11/2010	Used vacuum truck; blockage cleared.
08/06/2010	Cleaned area of spill; set overloads to proper settings; reset pumps.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized discharges into water in the state from the collection system, 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. WQ0011183003 Permit Condition 2.g.

3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with permitted effluent limits, in violation of TPDES Permit No. WQ0011183003 Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121.

4. As evidenced by Findings of Fact No. 5, the Respondent failed to properly maintain the clarifier units, in violation of TPDES Permit No. WQ0011183003; Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5).

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of Thirty-Seven Thousand One Hundred Sixty Dollars ($37,160) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX WATER CODE § 7.053. Thirty-Seven Thousand One Hundred Sixty Dollars ($37,160) shall be conditionally offset by Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Thirty-Seven Thousand One Hundred Sixty Dollars ($37,160) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Azle, Docket No. 2010-1847-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 Conclusions of Law Section II, Paragraph 6 section that describes the penalty and SEP above, Thirty Seven Thousand One Hundred Sixty Dollars ($37,160) of the assessed administrative penalty shall be offset with the condition that Respondent implement the SEP defined in Attachment A, incorporated herein by reference. 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, within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011183003, 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 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

8. 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.

9. 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.

10. 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.

11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 5/23/2011
For the Executive Director Date

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

I understand that by entering into this Agreed Order, the City of Azle waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

_____ 3/15/2011
Signature Date

Craig Lemin City Manager
Name (Printed or typed) Title
Authorized Representative of
City of Azle

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

Attachment A
Docket Numbers: 2010-1847-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Azle
Penalty Amount:	Thirty-Seven Thousand One Hundred Sixty Dollars ($37,160)
SEP Offset Amount:	Thirty-Seven Thousand One Hundred Sixty Dollars ($37,160)

Project 1: Azle Collection Event

Type of SEP:	Custom (Pre-approved Concept)
Project Name:	Azle Collection Event
Location of SEP:	Tarrant County

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Type of SEP:	Custom (Pre-approved Concept)
Project Name:	Ash Creek and Reynolds Branch Creek Cleanup
Location of SEP:	Tarrant County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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 projects in accordance with the terms of this Attachment A.

1. Project Descriptions

A. Project Information

Project 1: Azle Collection Event

Respondent shall hold a one-day event for the collection, recycling, or proper disposal of concrete, logs, furniture, car parts, and large, bulky municipal household waste. Respondent shall offer a supervised drop-off collection site where the public can drop off materials for disposal or recycling at no cost to the citizens. The event will be advertised in a local newspaper to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6. *Publicity*, below.

Respondent shall ensure that the event:

- is advertised to the public; and includes the publicity statement that the project is being performed as a Supplemental Environmental Project;
- occurs on a specified day of the weekend during daylight hours; and
- offers to the public a convenient drop-off location.

Respondent shall properly collect, transport, dispose of, or recycle the collected materials. The SEP Offset Amount will be used for heavy equipment such as roll-off bins, vehicles, and trailers; public announcements of the event; and costs of proper disposal and recycling.

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Respondent shall perform a waterway cleanup project along Ash Creek and Reynolds Branch Creek, in Tarrant County, Texas. For the Ash Creek cleanup, the project will be performed beginning at Stewart Street and proceed to Ash Creek Park. For Reynolds Branch Creek cleanup, the cleanup location will begin at Silver Creek Road and proceed to Ash Creek. The project will remove illegally discarded bulky solid waste including, but not limited to abandoned tires and tire rims, various car parts, concrete, logs, furniture, and trash. Respondent shall advertise the cleanup project with the required enforcement statement in the local newspaper.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the projects. No portion of the SEP Offset Amount shall be spent on administrative costs. Respondent shall perform the SEP in accordance with all federal, state, and local laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that there is no prior commitment to perform the projects, and that the projects are being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

Project 1: Azle Collection Event

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

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

The SEP will provide a discernible environmental benefit by improving the water quality of Ash Creek and Reynolds Branch Creek. This SEP will provide for the proper disposal of debris and waste and by reducing the associated health threats of illegally dumped debris and waste.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the projects and shall comply with all other provisions of this Attachment A. Respondent understands that it may cost more than the SEP Offset Amount to complete the projects.

2. Performance Schedule

Project 1: Azle Collection Event

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the project, and shall complete the project in its entirety within 365 days after the effective date of this Agreed Order.

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the project, and shall complete the SEP in its entirety within 365 days following the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Reports

Project 1: Azle Collection Event

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Table 4: Reporting Schedule for Project 1: Collection Event

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions being taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project

Days from Effective Order Date	Information Required
365	Notice of SEP project completion

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Table 5: Reporting Schedule for Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions being taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project
365	Notice of SEP project completion

B. Final Report

Project 1: Azle Collection Event

Within 60 days after completion of Project 1. Azle Collection Event, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which includes:

a. A summary total of the amount of costs incurred;
b. An itemized list of expenditures and costs incurred to complete the project;

c. Copies of invoices, paid receipts, and cleared checks, corresponding to the Azle Collection Event;
d. Copies of a) proof of advertisement of the event (the advertisement must include the enforcement 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;
e. A certified and notarized statement of the quantifiable environmental benefits produced by the project;
f. A map identifying the location of the collection site(s). The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
g. Dated photographs of the project showing the collected items;
h. A count of each type of item collected; i.e. number of tires, pounds of concrete, yards of brush, etc.;
i. Manifests sufficient to show proof of proper disposal and/or recycling of all of the collected items;
j. Any additional information and supporting documentation to demonstrate completion of the project in compliance with the SEP agreement.

Project 2: Ash Creek and Reynolds Branch Creek Cleanup

Within 60 days after completion of Project 2. Ash Creek and Reynolds Branch Creek Cleanup, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which includes:

a. A summary total of the amount of costs incurred;
b. An itemized list of expenditures and costs incurred to complete the project;
c. Copies of invoices, paid receipts, and cleared checks, corresponding to the Ash Creek and Reynolds Branch Creek Cleanup;
d. Copies of a) proof of advertisement of the event (the advertisement must include the enforcement 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;
e. A certified and notarized statement of the quantifiable environmental benefits produced by the project;
f. A map identifying the locations of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify the locations of the completed project;
g. Dated photographs of the project showing before and after the cleanup of creeks;
h. A count of each type of item collected; i.e. number of tires, pounds of metal, pounds of trash, yards of brush, etc.;
i. Manifests sufficient to show proof of proper disposal and/or recycling of all of the collected items;

j. Any additional information and supporting documentation to demonstrate completion of the project in compliance with this SEP agreement.

C. Address

Respondent shall submit all reports and supporting documentation required by this Attachment A and any requested additional information to the following address:

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

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

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

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

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

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must also clearly state that **the projects were performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include, but are not limited to advertising, public relations, and press releases.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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