

**Executive Summary – Enforcement Matter – Case No. 42045**

**City of Hubbard**

**RN101918480**

**Docket No. 2011-1162-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Hubbard, located south of Hubbard, approximately 2 miles south of the intersection of State Highways 31 and 171, Hill County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket No. 2011-1381-MWD-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 18, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$20,400

**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:** \$20,400

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

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

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**City of Hubbard**  
**RN101918480**  
**Docket No. 2011-1162-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** June 8, 2011  
**Date(s) of NOE(s):** June 24, 2011

***Violation Information***

1. Failed to comply with permitted effluent limitations for 5-day carbonaceous biochemical oxygen demand, chlorine, flow, ammonia nitrogen, dissolved oxygen, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010534001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].
2. Failed to submit the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2011, by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0010534001, Monitoring and Reporting Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
  - a. Within 30 days:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs; and
    - ii. Submit the DMR for January 31, 2011.
  - b. Within 45 days, submit written certification of compliance with Ordering Provision No. 2.a; and
  - c. Within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010534001, including specific corrective actions that were

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City of Hubbard  
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implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent 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:** Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.  
**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565  
**Respondent:** The Honorable Terry Reddell, Mayor, City of Hubbard, 118 North Magnolia, Hubbard, Texas 76648  
Dorothy Jackson, City Manager, City of Hubbard, 118 North Magnolia, Hubbard, Texas 76648  
**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2011-1162-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Hubbard

**Penalty Amount:** Twenty Thousand Four Hundred Dollars  
(\$20,400)

**SEP Offset Amount:** Twenty Thousand Four Hundred Dollars  
(\$20,400)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Austin Parks Foundation

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

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

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

**1. Project Description**

A. Project

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

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

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

**B. Environmental Benefit**

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

**C. Minimum Expenditure**

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

**2. Performance Schedule**

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

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

In the event the ED determines that the Respondent failed to complete the project, the Respondent shall remit payment for all or a portion of the SEP offset amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it

City of Hubbard  
Agreed Order - Attachment A

is for reimbursement of a SEP. The Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

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

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of 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 Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	27-Jun-2011	<b>Screening</b>	8-Jul-2011	<b>EPA Due</b>	
	<b>PCW</b>	11-Jul-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Hubbard
<b>Reg. Ent. Ref. No.</b>	RN101918480
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	3
<b>Enf./Case ID No.</b>	42045	<b>Order Type</b>	Findings
<b>Docket No.</b>	2011-1162-MWD-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Jennifer Graves
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$10,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>119.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$11,900</b>
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Notes: Enhancement for 22 months of self-reported effluent violations, two NOV's with dissimilar violations, and one NOV with same/similar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$3,522  
 Approx. Cost of Compliance: \$25,275  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$21,900</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>-6.8%</b>	<b>Adjustment</b>	<b>-\$1,500</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction so that the self-reported violations do not overly impact the penalty.

<b>Final Penalty Amount</b>	<b>\$20,400</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$20,400</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$20,400</b>
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**Screening Date** 8-Jul-2011

**Docket No.** 2011-1162-MWD-E

**PCW**

**Respondent** City of Hubbard

Policy Revision 2 (September 2002)

**Case ID No.** 42045

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101918480

**Media [Statute]** Water Quality

**Enf. Coordinator** Jennifer Graves

### 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> )	23	115%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 119%

>> **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 22 months of self-reported effluent violations, two NOVs with dissimilar violations, and one NOV with same/similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 119%

Screening Date 8-Jul-2011

Docket No. 2011-1162-MWD-E

PCW

Respondent City of Hubbard

Policy Revision 2 (September 2002)

Case ID No. 42045

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918480

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010534001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on June 8, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate five-day carbonaceous biochemical oxygen demand ("CBOD<sub>5</sub>") and ammonia nitrogen ("NH<sub>3</sub>-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, chlorine, and dissolved oxygen 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 \$9,000

\$1,000

Violation Events

Number of Violation Events 4 Number of violation days 212

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

Violation Base Penalty \$4,000

Four quarterly events are recommended.

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,505

Violation Final Penalty Total \$8,160

This violation Final Assessed Penalty (adjusted for limits) \$8,160

# Economic Benefit Worksheet

**Respondent** City of Hubbard  
**Case ID No.** 42045  
**Reg. Ent. Reference No.** RN101918480  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25,000	30-Apr-2010	30-Apr-2012	2.00	\$167	\$3,338	\$3,505
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

Estimated cost to conduct an evaluation of the wastewater treatment system to determine the cause of noncompliance and implement corrective actions. Date required is the initial month of noncompliance. Final date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

<b>Approx. Cost of Compliance</b>	\$25,000	<b>TOTAL</b>	\$3,505
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Screening Date 8-Jul-2011

Docket No. 2011-1162-MWD-E

PCW

Respondent City of Hubbard

Policy Revision 2 (September 2002)

Case ID No. 42045

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918480

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010534001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limitations, as documented during a record review on June 8, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate CBOD<sub>5</sub>, flow, and NH<sub>3</sub>-N to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

28 Number of violation days

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

Violation Base Penalty \$5,000

One monthly event is recommended for the month of February 2011.

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$10,200

This violation Final Assessed Penalty (adjusted for limits) \$10,200

# Economic Benefit Worksheet

**Respondent** City of Hubbard  
**Case ID No.** 42045  
**Reg. Ent. Reference No.** RN101918480  
**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

Screening Date 8-Jul-2011

Docket No. 2011-1162-MWD-E

PCW

Respondent City of Hubbard

Policy Revision 2 (September 2002)

Case ID No. 42045

PCW Revision October 30, 2005

Reg. Ent. Reference No. RN101918480

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0010534001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2011, by the 20th day of the following month, as documented during a record review conducted on June 8, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

138 Number of violation days

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

Violation Base Penalty \$1,000

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$2,040

This violation Final Assessed Penalty (adjusted for limits) \$2,040

# Economic Benefit Worksheet

**Respondent** City of Hubbard  
**Case ID No.** 42045  
**Reg. Ent. Reference No.** RN101918480  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$250	8-Jun-2011	30-Apr-2012	0.90	\$1	\$15	\$16
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)	\$25	20-Feb-2011	30-Apr-2012	1.19	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost to update operational guidance and conduct employee training to ensure that all monitoring records are properly maintained and all reporting requirements are met. Date required is the investigation date. Final date is the expected date of compliance. The estimated cost to prepare and submit the DMR. Date required is the date the DMR was due. 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

\$275

**TOTAL**

\$17

**EFFLUENT VIOLATION TABLE**

City of Hubbard

TPDES Permit No. WQ0010534001

Docket No. 2011-1162-MWD-E

Months	CBOD <sub>5</sub> Daily Avg. Conc.	CBOD <sub>5</sub> Daily Avg. Loading	Chlorine Monthly Min. Conc.	Flow Daily Avg.	NH <sub>3</sub> -N Daily Avg. Conc.	NH <sub>3</sub> -N Daily Avg. Loading	DO Monthly Min. Conc.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	Limit = 10.00 mg/L	Limit = 21 lbs/day	Limit = 1.00 mg/L	Limit = 0.250 MGD	Limit = 3.0 mg/L	Limit = 6.3 lbs/day	Limit = 4.0 mg/L	Limit = 15.00 mg/L	Limit = 31.00 lbs/day
April 2010	c	c	0.61	c	c	c	c	c	c
June 2010	c	c	0.23	c	c	c	c	c	c
July 2010	c	c	0.06	c	c	c	2.7	c	c
August 2010	c	c	0.31	c	c	c	c	c	c
September 2010	c	c	0.21	c	c	c	c	c	c
December 2010	15.25	c	0.60	c	6.7	6.7	c	23.00	c
February 2011	c	22	c	0.352	7.1	21.0	c	c	c
March 2011	c	c	c	c	c	c	c	30.25	43.67

CBOD<sub>5</sub> = 5-day carbonaceous biochemical oxygen demand

NH<sub>3</sub>-N = ammonia nitrogen

DO = dissolved oxygen

TSS = total suspended solids

Avg. = Average

Conc. = Concentration

Min. = Minimum

mg/L = milligrams per Liter

lbs/day = pounds per day

MGD = million gallons per day

c = compliant



## Compliance History

Customer/Respondent/Owner-Operator:	CN600626311 City of Hubbard	Classification: AVERAGE	Rating: 0.79
Regulated Entity:	RN101918480 CITY OF HUBBARD	Classification: AVERAGE	Site Rating: 0.79
ID Number(s):	WASTEWATER	PERMIT	WQ0010534001
	WASTEWATER	EPA ID	TX0053295
	WATER QUALITY NON PERMITTED	ID NUMBER	090100311
	WATER QUALITY NON PERMITTED	ID NUMBER	090100312
	WASTEWATER LICENSING	LICENSE	WQ0010534001
Location:	SOUTH OF HUBBARD, APPROX. 2 M S OF THE INTX OF STATE HWYS 31 AND 171 IN HILL CO, TX		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	July 08, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 08, 2006 to July 08, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jennifer Graves	Phone:	(956) 430-6023

### Site Compliance History Components

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

### Components (Multimedia) for the Site:

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

1	07/10/2008	(407030)
2	07/21/2006	(523475)
3	08/14/2006	(523476)
4	09/21/2006	(523477)
5	10/23/2006	(548379)
6	11/21/2006	(548380)
7	12/27/2006	(548381)
8	06/05/2007	(562964)
9	02/23/2007	(581481)
10	03/20/2007	(581482)
11	04/26/2007	(581483)
12	05/23/2007	(581484)
13	06/26/2007	(581485)
14	01/19/2007	(581486)
15	07/24/2007	(608137)
16	07/24/2007	(608139)
17	09/25/2007	(608140)
18	10/26/2007	(621719)
19	11/27/2007	(621720)
20	02/26/2008	(673669)
21	01/03/2008	(673670)

22 01/17/2008 (673671)  
 23 04/17/2008 (691922)  
 24 04/17/2008 (691923)  
 25 05/16/2008 (691924)  
 26 03/10/2009 (701834)  
 27 06/17/2008 (712929)  
 28 07/28/2008 (712930)  
 29 09/04/2008 (712931)  
 30 09/24/2008 (712932)  
 31 10/21/2008 (729142)  
 32 11/13/2008 (729143)  
 33 12/29/2008 (729144)  
 34 03/19/2009 (736222)  
 35 05/11/2009 (742269)  
 36 05/11/2009 (743928)  
 37 02/26/2009 (752311)  
 38 01/23/2009 (752312)  
 39 03/23/2009 (769963)  
 40 04/20/2009 (769964)  
 41 05/13/2009 (769965)  
 42 02/02/2010 (785366)  
 43 02/25/2010 (809521)  
 44 06/16/2009 (809522)  
 45 07/24/2009 (809523)  
 46 08/24/2009 (809524)  
 47 09/21/2009 (809525)  
 48 10/29/2009 (809526)  
 49 11/30/2009 (809527)  
 50 12/23/2009 (809528)  
 51 01/12/2010 (809529)  
 52 03/24/2010 (832605)  
 53 04/23/2010 (832606)  
 54 04/30/2010 (845203)  
 55 06/28/2010 (846810)  
 56 09/14/2010 (848863)  
 57 09/29/2010 (867501)  
 58 08/25/2010 (867502)  
 59 09/27/2010 (874508)  
 60 11/03/2010 (888556)  
 61 12/02/2009 (896900)  
 62 12/23/2010 (896901)  
 63 02/08/2011 (909699)  
 64 04/28/2011 (926799)  
 65 06/24/2011 (932683)

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

Date: 08/31/2007 (608140) CN600626311  
 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: 09/30/2007 (621719) CN600626311  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2007 (621720) CN600626311  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2007 (673670) CN600626311  
 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: 06/30/2008 (712930) CN600626311  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2008 (712932) CN600626311  
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: 12/31/2008 (752312) CN600626311  
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: 03/24/2009 (736222) CN600626311  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(9)  
Reporting Requirements; No. 7(a), Pg. 5 PERMIT  
Description: Failure by the permittee to notify the TCEQ Waco Regional Office of an unauthorized discharge within 24 hours of becoming aware of the noncompliance.

Date: 04/06/2009 (737387) CN600626311  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Permit Conditions; Section 2(g), Page 7 PERMIT  
Description: Failure by the permittee to prevent the unauthorized discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Date: 05/13/2009 (742269) CN600626311  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(9)  
Reporting Requirements; No. 7(a), Pg. 5 PERMIT  
Description: Failure by the permittee to notify the TCEQ Waco Regional Office of an unauthorized discharge within 24 hours of becoming aware of the noncompliance.

Date: 08/31/2009 (809525) CN600626311  
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 (809527) CN600626311  
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 (809528) CN600626311  
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 (809529) CN600626311  
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 (809521) CN600626311  
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 (832605) CN600626311  
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 (832606) CN600626311  
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 (845203) CN600626311  
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: 06/30/2010 (867501) CN600626311  
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: 07/31/2010 (867502) CN600626311  
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: 08/31/2010 (874508) CN600626311  
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: 09/30/2010 (888556) CN600626311  
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: 12/31/2010 (909699) CN600626311  
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: 02/28/2011 (932683) CN600626311  
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: 03/31/2011 (926799) CN600626311  
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 HUBBARD  
RN101918480

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

**AGREED ORDER**  
**DOCKET NO. 2011-1162-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 Hubbard (“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 it has 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 plant located south of Hubbard, approximately two miles south of the intersection of State Highways 31 and 171 in Hill 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. During a record review on June 8, 2011, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports ("DMRs"):

EFFLUENT VIOLATION TABLE									
Months	CBOD <sub>5</sub> Daily Avg. Conc.	CBOD <sub>5</sub> Daily Avg. Loading	Chlorine Monthly Min. Conc.	Flow Daily Avg.	NH <sub>3</sub> -N Daily Avg. Conc.	NH <sub>3</sub> -N Daily Avg. Loading	DO Monthly Min. Conc.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
	Limit = 10.00 mg/L	Limit = 21 lbs/day	Limit = 1.00 mg/L	Limit = 0.250 MGD	Limit = 3.0 mg/L	Limit = 6.3 lbs/day	Limit = 4.0 mg/L	Limit = 15.00 mg/L	Limit = 31.00 lbs/day
April 2010	c	c	0.61	c	c	c	c	c	c
June 2010	c	c	0.23	c	c	c	c	c	c
July 2010	c	c	0.06	c	c	c	2.7	c	c
August 2010	c	c	0.31	c	c	c	c	c	c
September 2010	c	c	0.21	c	c	c	c	c	c
December 2010	15.25	c	0.60	c	6.7	6.7	c	23.00	c
February 2011	c	22	c	0.352	7.1	21.0	c	c	c
March 2011	c	c	c	c	c	c	c	30.25	43.67
CBOD <sub>5</sub> = 5-day carbonaceous biochemical oxygen demand					Min. = Minimum				
NH <sub>3</sub> -N = ammonia nitrogen					mg/L = milligrams per Liter				
DO = dissolved oxygen					lbs/day = pounds per day				
TSS = total suspended solids					MGD = million gallons per day				
Avg. = Average					c = compliant				
Conc. = Concentration									

4. During a record review on June 8, 2011, TCEQ staff documented that the Respondent did not submit the DMR for the monitoring period ending January 31, 2011.
5. The Respondent received notice of the violations on June 27, 2011.

## 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 comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010534001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit the DMR for the monitoring period ending January 31, 2011, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0010534001, Monitoring and Reporting Requirements No. 1.
4. 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.
5. An administrative penalty in the amount of Twenty Thousand Four Hundred Dollars (\$20,400) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b) and TEX. WATER CODE § 7.053. Twenty Thousand Four Hundred Dollars (\$20,400) shall be conditionally offset by the 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 Twenty Thousand Four Hundred Dollars (\$20,400) as set forth in Section II, Paragraph 5 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 Hubbard, Docket No. 2011-1162-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 II, Paragraph 5, Conclusions of Law, above, Twenty Thousand Four Hundred Dollars (\$20,400) 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 Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs, in accordance with TPDES Permit No. WQ0010534001; and
    - ii. Submit the DMR for January 31, 2011, in accordance with TPDES Permit No. WQ0010534001, Monitoring and Reporting Requirements.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a, in accordance with Ordering Provision No. 3.d;
  - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010534001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and
  - d. The written certification required by Ordering Provision Nos. 3.b and 3.c shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

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

R. D. Hyde  
For the Executive Director

12/2/11  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Hubbard. I am authorized to agree to the attached Agreed Order on behalf of the City of Hubbard, 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 Hubbard 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.

Dorothy Jackson  
Signature

9-23-11  
Date

Dorothy Jackson  
Name (Printed or typed)  
Authorized Representative of  
City of Hubbard

City Manager  
Title

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



**Attachment A**  
**Docket Number: 2011-1162-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Hubbard

**Penalty Amount:** Twenty Thousand Four Hundred Dollars  
(\$20,400)

**SEP Offset Amount:** Twenty Thousand Four Hundred Dollars  
(\$20,400)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Austin Parks Foundation

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

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

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

**1. Project Description**

A. Project

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

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

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

**B. Environmental Benefit**

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

**C. Minimum Expenditure**

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

**2. Performance Schedule**

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

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

In the event the ED determines that the Respondent failed to complete the project, the Respondent shall remit payment for all or a portion of the SEP offset amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it

City of Hubbard  
Agreed Order - Attachment A

is for reimbursement of a SEP. The Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

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

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of 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 Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.