

City of Overton
RN102096203
Docket No. 2009-0452-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 (PCW 1-violation 1; PCW 2-violation 3).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

2900 feet east of the intersection of Henderson Street and Linda Lane in Overton, Rusk County

Type of Operation:

domestic wastewater treatment system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date:	August 3, 2012
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$42,642
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Total Paid to General Revenue:	\$1,342
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Total Due to General Revenue:	\$41,300
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Payment Plan:	35 payments of \$1,180
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SEP Conditional Offset:	N/A
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Compliance History Classifications:

Person/CN – Average	
Site/RN – Average	

Major Source:	No
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Statutory Limit Adjustment:	None
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Applicable Penalty Policy:	September 2002
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Investigation Information

Complaint Date(s):	N/A
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Date(s) of Investigation:	January 28, 2009; February 17, 2009
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Date(s) of NOV(s):	See Compliance History – 20 related NOVs
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Date(s) of NOE(s):	March 28, 2009; April 14, 2009
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City of Overton
RN102096203
Docket No. 2009-0452-MWD-E

Violation Information

1. Failed to comply with the permit effluent limits for the period November 1, 2207 through October 31, 2008 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Effluent Limitations and Monitoring Requirements Nos. 1 and 6].
2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2008 [30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010242001 Sludge Provisions].
3. Failed to timely submit the total ammonia nitrogen daily maximum data for the monitoring period ending March 31, 2008 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1, and TPDES Permit No. WQ0010242001 Monitoring and Reporting Requirements No. 1].
4. Failed to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities when the effluent daily average flow measurements reach 75% of the permitted daily average flow limit for three consecutive months [30 TEX. ADMIN. CODE § 305.126(a) and TPDES Permit No. WQ0010242001 Operational Requirements No. 1].
5. Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0010242001 Operational Requirements No. 1].
6. Failed to prevent unauthorized discharges [TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0010242001 Permit Condition 2.g.].
7. Failed to report effluent violations which were more than 40 percent greater than the permit effluent limitation [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010242001 Monitoring and Reporting Requirements 7.c.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. On March 31, 2009, submitted the annual sludge report for the monitoring period ending July 31, 2008 (violation 2); and
2. On April 13, 2009, submitted the data for total ammonia nitrogen daily maximum for the monitoring period ending March 31, 2008 (violation 3).

Technical Requirements:

1. Within 30 days:
 - a. Submit the noncompliance notification to TCEQ for the total suspended solids exceedance that occurred in December 2007 (violation 7);
 - b. Remove and properly dispose of any remaining wastewater and all contaminated soil resulting from the October 9, 2008, and the February 9, 2009, discharges (violation 6);
 - c. Remove and properly dispose of excess sludge blankets in both "old" and "new" clarifiers at the Facility (violation 5); and
 - d. Initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities (violation 4).
2. Within 90 days, submit written certification of compliance with permitted effluent limitations, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reporting discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations (violation 1).
3. Within 105 days, submit written certification demonstrating compliance.

City of Overton

RN102096203

Docket No. 2009-0452-MWD-E

Litigation Information

Date Petition(s) Filed: October 8, 2009
Date Answer(s) Filed: December 31, 2009
SOAH Referral Date: March 5, 2010
Hearing Date(s):
 Preliminary hearing: April 15, 2010 (waived)
 Evidentiary hearing: August 4, 2010 (remanded July 29, 2010)
Settlement Date: July 18, 2012

Contact Information

TCEQ Attorneys: Jeffery Huhn, Litigation Division, (512) 239-3400
 Lena Roberts, Litigation Division, (512) 239-3400
 Blas Coy, Public Interest Counsel, (512) 239-6363
TCEQ SEP Coordinator: N/A
TCEQ Enforcement Coordinator: Harvey Wilson, Enforcement Division, (512) 239-03210
TCEQ Regional Contact: Ross Morgan, Tyler Regional Office, (903) 535-5100
Respondent: B. J. Potts, City Manager, City of Overton, 1200 South Commerce, Overton, Texas 75684
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Mar-2009		
	PCW	1-Apr-2009	Screening	31-Mar-2009
			EPA Due	

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

CASE INFORMATION			
Enf./Case ID No.	37396	No. of Violations	4
Docket No.	2009-0452-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,200
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	106.0% Enhancement	Subtotals 2, 3, & 7	\$10,812
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Notes
Enhancement for 18 months of self-reported effluent violations, three NOV's with dissimilar violations, and two NOV's with same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$10
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$2,471
Approx. Cost of Compliance \$11,100
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,002
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-12.1%	Adjustment	-\$2,540
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount	\$18,462
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,462
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$18,462
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Screening Date 31-Mar-2009	Docket No. 2009-0452-MWD-E	PCW
Respondent City of Overton		Policy Revision 2 (September 2002)
Case ID No. 37396		PCW Revision October 30, 2008
Reg. Ent. Reference No. RN102096203		
Media [Statute] Water Quality		
Enf. Coordinator Harvey Wilson		

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	20	100%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
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) 106%

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

No	Adjustment Percentage (Subtotal 3) 0%
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>> **Compliance History Person Classification (Subtotal 7)**

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> **Compliance History Summary**

Compliance History Notes	Enhancement for 18 months of self-reported effluent violations, three NOVs with dissimilar violations, and two NOVs with same/similar violations.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 106%

Screening Date	31-Mar-2009	Docket No.	2009-0452-MWD-E	PCW		
Respondent	City of Overton			<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	37396			<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN102096203					
Media [Statute]	Water Quality					
Enf. Coordinator	Harvey Wilson					
Violation Number	1					
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Effluent Limitations and Monitoring Requirements Nos. 1 and 6					
Violation Description	Failed to comply with the permit effluent limits.					
		Base Penalty	\$10,000			
>> Environmental, Property and Human Health Matrix						
OR		Harm				
	Release	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 ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and dissolved oxygen were also considered. 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	30	Number of violation days		
		daily				
		weekly				
		monthly	x			
		quarterly				
		semiannual				
		annual				
		single event				
		One monthly event is recommended for the month of September 2008.				
		Violation Base Penalty	\$5,000			
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						
	Estimated EB Amount	\$2,418	Violation Final Penalty Total	\$9,054		
		This violation Final Assessed Penalty (adjusted for limits)				
		\$9,054				

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 37396
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	1-Dec-2007	30-Sep-2012	4.84	\$2,418	n/a	\$2,418

Notes for DELAYED costs

The estimated cost of replacing the digester pump and repairing the clarifier and a malfunctioning valve. Also, the estimated cost to evaluate the system and to make any other repairs/replacements as needed to ensure compliance with permitted limits. Date required is the date the violation was first documented. Final Date is the projected 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 \$2,418

Screening Date	31-Mar-2009	Docket No.	2009-0452-MWD-E	PCW
Respondent	City of Overton			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37396			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102096203			
Media [Statute]	Water Quality			
Enf. Coordinator	Harvey Wilson			

Violation Number	2
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. WQ0010242001 Effluent Limitations and Monitoring Requirements Nos. 1 and 6
Violation Description	Failed to comply with the permit effluent limits.
Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			x
	Potential			
				Percent 10%

>> 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 protective of human health or the environment. Flow, total suspended solids, 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: 4 215 Number of violation days

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 for the quarters with the months of November and December 2007 and March, April, May, July, August and October of 2008.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$0	Violation Final Penalty Total: \$7,243
This violation Final Assessed Penalty (adjusted for limits): \$7,243	

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 37396
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				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	31-Mar-2009	Docket No.	2009-0452-MWD-E	PCW
Respondent	City of Overton			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37396			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102096203			
Media [Statute]	Water Quality			
Enf. Coordinator	Harvey Wilson			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Sludge Provisions			
Violation Description	Failed to timely submit the annual sludge report at the interval specified in the permit. Specifically, the City did not submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008.			
		Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	x
			Percent	1%
Matrix Notes	Less than 30% of the rule requirement was not met.			
		Adjustment	\$9,900	
			\$100	
Violation Events				
	Number of Violation Events	1	Number of violation days	212
	<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty
		weekly	<input type="text"/>	
		monthly	<input type="text"/>	
		quarterly	<input type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	x	
		One single event is recommended.		\$100
Good Faith Efforts to Comply				
		0.0%	Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)	
	Notes	The Respondent does not meet the good faith criteria for this violation.		
		Violation Subtotal	\$100	
Economic Benefit (EB) for this violation				
	Estimated EB Amount	\$14	Violation Final Penalty Total	\$181
		This violation Final Assessed Penalty (adjusted for limits)		
			\$181	

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 37396
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	1-Sep-2008	31-Mar-2009	0.58	\$14	n/a	\$14
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of training Facility personnel so that all reports are submitted timely and completely. Date Required is the date the violation occurred. 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

\$500

TOTAL

\$14

Screening Date	31-Mar-2009	Docket No.	2009-0452-MWD-E	PCW
Respondent	City of Overton	Policy Revision 2 (September 2002)		
Case ID No.	37396	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN102096203			
Media [Statute]	Water Quality			
Enf. Coordinator	Harvey Wilson			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(17) and 319.1, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Monitoring and Reporting Requirements No. 1			
Violation Description	Failed to timely submit the total ammonia nitrogen daily maximum data for the monitoring period ending March 31, 2008. Specifically, the data was submitted on April 14, 2009.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			
				Percent 0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				x
				Percent 1%
Matrix Notes	Less than 30% of the rule requirement was not met.			
Adjustment				\$9,900
				\$100
Violation Events				
	Number of Violation Events	1	Number of violation days	31
mark only one with an x	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
				Violation Base Penalty \$100
A single event is recommended.				
Good Faith Efforts to Comply				
		10.0% Reduction	\$10	
		Before NOV NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary		x		
N/A		(mark with x)		
Notes	The data for the total ammonia nitrogen daily maximum was submitted on April 13, 2009.			
Violation Subtotal				\$90
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount	\$28	Violation Final Penalty Total	\$172	
This violation Final Assessed Penalty (adjusted for limits)				\$172

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 37396
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	1-Mar-2008	13-Apr-2009	1.12	\$28	n/a	\$28
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs The estimated cost of training Facility personnel so all reports are submitted timely and completely. Date Required in the date the violation was documented. 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 \$500

TOTAL \$28



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Apr-2009			
	PCW	1-May-2009	Screening	29-Apr-2009	EPA Due

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

CASE INFORMATION					
Enf./Case ID No.	37396	No. of Violations	4		
Docket No.	2009-0452-MWD-E	Order Type	Findings		
Media Program(s)	Water Quality	Government/Non-Profit	Yes		
Multi-Media		Enf. Coordinator	Harvey Wilson		
		EC's Team	Enforcement Team 3		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$13,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	106.0% Enhancement	Subtotals 2, 3, & 7	\$13,780
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Notes
Enhancement for 18 months of self-reported effluent violations, three NOVs with dissimilar violations, and two NOVs with same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$20,473
Approx. Cost of Compliance \$150,100
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$26,780
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-9.7%	Adjustment	-\$2,600
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount	\$24,180
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$24,180
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$24,180
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Screening Date 29-Apr-2009	Docket No. 2009-0452-MWD-E	PCW
Respondent City of Overton		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 37396		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN102096203		
Media [Statute] Water Quality		
Enf. Coordinator Harvey Wilson		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (<i>number of NOV's meeting criteria</i>)	20	100%
	Other written NOV's	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 106%

>> Repeat Violator (Subtotal 3)

No	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	Enhancement for 18 months of self-reported effluent violations, three NOV's with dissimilar violations, and two NOV's with same/similar violations.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 106%

Screening Date 29-Apr-2009	Docket No. 2009-0452-MWD-E	PCW		
Respondent City of Overton		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37396		<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN102096203				
Media [Statute] Water Quality				
Enf. Coordinator Harvey Wilson				
Violation Number 1				
Rule Cite(s)	30 Tex. Admin. Code § 305.126(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Operational Requirements No. 1			
Violation Description	Failed to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities when the effluent daily average flow measurements reach 75% of the permitted daily average flow limit for three consecutive months. Specifically, the flow at the Facility exceed 75% of its permitted daily average flow limit of 0.6 million gallons per day in March, April, and May of 2008.			
	Base Penalty	\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	
		x		
			Percent 10%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent 0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would not exceed levels protective of human health or environmental receptors.			
	Adjustment	\$9,000		
			\$1,000	
Violation Events				
	Number of Violation Events	1	71	
			Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
			Violation Base Penalty \$1,000	
	One quarterly event is recommended from the February 17, 2009, investigation date until the April 29, 2009, screening date.			
Good Faith Efforts to Comply		0.0% Reduction	\$0	
		Before NOV NOV to EDRP/ Settlement		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="checkbox"/>	(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	\$19,651	Violation Final Penalty Total \$1,860	
	This violation Final Assessed Penalty (adjusted for limits)		\$1,860	

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 37396
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$85,000	1-Jun-2008	30-Jun-2010	2.08	\$589	\$11,784	\$12,373
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$50,000	1-Jun-2008	30-Jun-2010	2.08	\$347	\$6,932	\$7,278
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of labor, engineering fees, and equipment to assess the wastewater treatment facility for high flows and the administrative processing of a notice and/or engineering report to obtain an authorization to construct. Date required is the last of three consecutive months when the flows were reported to exceed permitted limit flows. Final date is the date when compliance is expected to be achieved.

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

\$135,000

TOTAL

\$19,651

Screening Date	29-Apr-2009	Docket No.	2009-0452-MWD-E	PCW
Respondent	City of Overton			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37396			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102096203			
Media [Statute]	Water Quality			
Enf. Coordinator	Harvey Wilson			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Operational Requirements No. 1			
Violation Description	Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, one of the sludge drying beds was out of service, one of the disc rotors in the aeration basin was out of service, and the other disc rotor had three broken disc units thereby reducing the amount of available oxygen.			
		Base Penalty		\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	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 pollutants which would not exceed levels protective of human health or environmental receptors.			
		Adjustment		\$9,000
				\$1,000
Violation Events				
	Number of Violation Events	1	Number of violation days	71
<i>mark only one with an x</i>	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
			Violation Base Penalty	\$1,000
	One quarterly event is recommended from the February 17, 2009, investigation date until the April 29, 2009, screening date.			
Good Faith Efforts to Comply				
	0.0% Reduction			\$0
		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary			
	Ordinary			
	N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
		Violation Subtotal		\$1,000
Economic Benefit (EB) for this violation				
	Estimated EB Amount	\$152	Statutory Limit Test	
			Violation Final Penalty Total	\$1,860
			This violation Final Assessed Penalty (adjusted for limits)	\$1,860

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 37396
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	17-Feb-2009	31-Dec-2009	0.87	\$7	\$145	\$152
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of repairing the disc rotors in the aeration basin and removing excess sludge from both clarifiers. Date Required was the date the violation was documented. Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$152

Screening Date	29-Apr-2009	Docket No.	2009-0452-MWD-E	PCW
Respondent	City of Overton			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37396			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102096203			
Media [Statute]	Water Quality			
Enf. Coordinator	Harvey Wilson			

Violation Number

Rule Cite(s)
 Tex. Water Code § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Permit Condition 2.g

Violation Description
 Failed to prevent unauthorized discharges from the JRM lift station. Specifically, unauthorized discharges of raw sewage occurred on October 9, 2008, and on February 9, 2009, due to pump failure and grease blockage. On October 9, 2008, the wastewater pooled in a down-stream pasture and a cow and calf became ill from ingesting the wastewater.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input checked="" type="checkbox"/>			Percent <input type="text" value="50%"/>
Potential					

>> Programmatic Matrix

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

Matrix Notes
 Human health or the environment was exposed to pollutants which exceed levels protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two daily events are recommended.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 37396
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	9-Oct-2008	31-Dec-2009	1.23	\$10	\$205	\$215
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	\$10,000	9-Feb-2009	31-Dec-2009	0.89	\$445	n/a	\$445
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The estimated cost of repairing or replacing the malfunctioning pump and of removing the contaminated soil and disposing of it properly. Date Requested is the date of the first discharge. Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$12,500

TOTAL

\$660

Screening Date	29-Apr-2009	Docket No.	2009-0452-MWD-E	PCW
Respondent	City of Overton			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37396			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102096203			
Media [Statute]	Water Quality			
Enf. Coordinator	Harvey Wilson			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Monitoring and Reporting Requirements No. 7.c.			
Violation Description	Failed to report effluent violations which were 40% greater than the permit effluent limitation. Specifically, a noncompliance notification was not submitted for the total suspended solids for December 2007, which exceeded the permitted effluent limitation by more than 40%.			
		Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
			Percent	10%
Matrix Notes	100% of the rule requirement was not met.			
			Adjustment	\$9,000
				\$1,000
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="1"/>	Number of violation days
		daily	<input type="text"/>	
		weekly	<input type="text"/>	
		monthly	<input type="text"/>	
		quarterly	<input type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	x	
				Violation Base Penalty
				\$1,000
		One single event is recommended.		
Good Faith Efforts to Comply				
		0.0%	Reduction	\$0
		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	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	<input type="text" value="\$10"/>	Violation Final Penalty Total	<input type="text" value="\$1,860"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,860"/>

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 37396
Reg. Ent. Reference No. RN102096203
Media Water Quality
Violation No. 4

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)	\$100	1-Dec-2007	31-Dec-2009	2.08	\$10	n/a	\$10

Notes for DELAYED costs

The estimated cost of submitting a report that effluent violations were more than 40% greater than the permit effluent limitation. Date Required is the date the violation was documented. Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$10

Compliance History Report

Customer/Respondent/Owner-Operator: CN600634877 City of Overton Classification: AVERAGE Rating: 2.27
 Regulated Entity: RN102096203 CITY OF OVERTON WASTEWATER TREATMENT PLANT Classification: AVERAGE Site Rating: 0.81

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

Location: 2,900 feet east of the intersection of Henderson Street and Linda Lane in Rusk County, Texas

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: March 31, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 31, 2004 to March 31, 2009

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

Name: Harvey Wilson Phone: 239 - 0321

Site Compliance History Components

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

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 05/10/2004 (364227)	23 01/23/2006 (479318)	45 09/24/2007 (605188)
2 06/22/2004 (322557)	24 02/23/2006 (479313)	46 10/22/2007 (628562)
3 06/24/2004 (364228)	25 03/22/2006 (479314)	47 11/27/2007 (628563)
4 07/26/2004 (364229)	26 04/24/2006 (505094)	48 12/19/2007 (628564)
5 09/09/2004 (364230)	27 05/22/2006 (505095)	49 01/22/2008 (676454)
6 11/09/2004 (388629)	28 06/16/2006 (505096)	50 02/11/2008 (676453)
7 01/05/2005 (388630)	29 07/10/2006 (486034)	51 03/24/2008 (694914)
8 01/13/2005 (346634)	30 07/19/2006 (527401)	52 04/21/2008 (694915)
9 01/31/2005 (388631)	31 08/21/2006 (527402)	53 05/22/2008 (694916)
10 02/28/2005 (430587)	32 09/21/2006 (527403)	54 06/23/2008 (716407)
11 04/01/2005 (430588)	33 10/19/2006 (551149)	55 07/21/2008 (716408)
12 04/20/2005 (430589)	34 11/27/2006 (551150)	56 07/25/2008 (683323)
13 05/23/2005 (430590)	35 01/18/2007 (587755)	57 08/20/2008 (716409)
14 06/21/2005 (430591)	36 01/22/2007 (587756)	58 09/22/2008 (716410)
15 06/24/2005 (396401)	37 02/26/2007 (587750)	59 10/22/2008 (731870)
16 07/21/2005 (430592)	38 03/21/2007 (587751)	60 11/21/2008 (708012)
17 08/11/2005 (446569)	39 04/24/2007 (587752)	61 11/24/2008 (731871)
18 09/19/2005 (446570)	40 05/23/2007 (587753)	62 12/11/2008 (710329)
19 10/20/2005 (479315)	41 06/21/2007 (587754)	63 12/22/2008 (731872)
20 11/21/2005 (479316)	42 07/24/2007 (605186)	64 03/27/2009 (725285)
21 12/13/2005 (438615)	43 08/22/2007 (572827)	65 03/31/2009 (739911)
22 12/22/2005 (479317)	44 08/22/2007 (605187)	

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

Date: 09/30/2004 (388629) CN600634877
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
Date: 06/27/2005 (396401)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(a)(8)
 30 TAC Chapter 317 317.7(i)
 Description: Failure to protect potable water from contamination.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(g)(4)(B)		
Description:	Failure to properly operate and maintain aeration basin.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.5(b)		
Description:	Failure to properly operate and maintain the sludge digester.		
Date:	12/13/2005 (438615)		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	Failure to prevent the unauthorized discharge of wastewater into waters of the state.		
Date:	07/31/2006 (527402)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2006 (527403)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2006 (587756)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2007 (587750)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2007 (605186)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2007 (605187)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2007 (628563)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2007 (628564)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2007 (676454)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2008	CN600634877	
Self Report?	Yes	Classification:	Moderate
Citation:	30 TAC chapter 305, Subchapter F 305.125(1) 2D TWC Chapter 26, Subchapter A 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2008 (694916)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date: 05/31/2008	(716407)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 07/30/2008	(683323)	CN600634877	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(e)(4)(D)		
Description:	Failure to have the appropriate functional high level alarms in the Texas A&M lift station and the Warren Street lift station.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(c)(1) 30 TAC Chapter 317 317.3(c)(2) 30 TAC Chapter 317 317.3(c)(3) 30 TAC Chapter 317 317.3(c)(4) 30 TAC Chapter 317 317.3(c)(5) 30 TAC Chapter 317 317.3(c)(6) 30 TAC Chapter 317 317.3(c)(7)		
Description:	Failure to have two functional pumps operating at the following lift stations: FM 2089, JRM (May), Warren Street, and the HWY 850 lift station.		
Date: 07/31/2008	(716409)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 08/31/2008	(716410)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 09/30/2008	(731870)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 10/31/2008	(731871)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 11/30/2008	(731872)	CN600634877	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 12/15/2008	(710329)	CN600634877	
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	Failure to properly prevent an unauthorized discharge as specified in the Texas Water Code §26.121(a).		
Date: 03/27/2009	(739911)	CN600634877	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to have adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastes.		

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2009-0452-MWD-E

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

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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a domestic wastewater treatment system located 2900 feet east of the intersection of Henderson Street and Linda Lane in Overton, Rusk County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During a record review conducted on January 28, 2009, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to comply with permit effluent limits for the period November 1, 2007 through October 31, 2008, as depicted in the Effluent Violation Table below:

	Total Suspended Solids max daily average loading 75 lbs	Total Suspended Solids max daily average concentration 15 mg/L	Total Suspended Solids max concentration 40 mg/L	Ammonia Nitrogen max daily average loading 10 lbs	Ammonia Nitrogen max daily average concentration 2 mg/L	Ammonia Nitrogen max concentration 10 mg/L	Dissolved Oxygen minimum concentration 6.0 mg/L	Flow through conduit max daily average 0.6 mgd
Nov. 2007	C	C	C	C	2.21	C	C	C
Dec. 2007	106	22	42	C	C	C	C	C
Mar. 2008	C	C	C	C	C	Not Reported	C	.602
April 2008	C	C	C	C	C	C	C	.639
May 2008	C	C	C	C	C	C	C	.652
July 2008	C	C	C	11.5	C	C	4.0	C
Aug. 2008	C	C	C	26	5.5	C	C	C
Sep. 2008	C	C	C	49.3	9.1	12.9	4.6	C
Oct. 2008	C	C	C	19	4.4	C	C	C
max = maximum lbs = pounds mg/L = milligrams per liter mgd = million gallons per day C = in compliance								

- b. Failed to submit the annual sludge report at the interval specified in the permit. Specifically, Respondent did not submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008; and
 - c. Failed to timely submit the total ammonia nitrogen daily maximum data for the monitoring period ending March 31, 2008. Specifically, the data was submitted on April 14, 2009.
3. During an investigation conducted on February 17, 2009, a TCEQ Tyler Regional Office investigator documented that Respondent:
- a. Failed to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities when the effluent daily average flow measurements reached 75% of the permitted daily average flow limit for three consecutive months. Specifically, the flow at the Facility exceeded 75% of its permitted daily average flow limit of 0.6 million gallons per day in March, April, and May 2008;

- b. Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, one sludge drying bed was out of service, one of the disc rotors in the aeration basin was out of service, and the other disc rotor had three broken disc units thereby reducing the amount of available oxygen;
 - c. Failed to prevent unauthorized discharges from the JRM lift station. Specifically, unauthorized discharges of raw sewage occurred on October 9, 2008, and on February 9, 2009, due to pump failure and grease blockage. On October 9, 2008 the wastewater pooled in a down-stream pasture and a cow and calf became ill from ingesting the wastewater; and
 - d. Failed to report effluent violations which were 40% greater than the permit effluent limitation. Specifically, a noncompliance notification was not submitted for the total suspended solids for December 2007, which exceeded the permitted effluent limitation by more than 40 percent.
4. Respondent received notice of the violations alleged in Findings of Fact Nos. 2.a. through 2.c. on or about April 2, 2009. Respondent received notice of the violations alleged in Findings of Fact Nos. 3.a. through 3.d. on or about April 19, 2009.
5. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. On March 31, 2009, submitted the annual sludge report for the monitoring period ending July 31, 2008 (Conclusion of Law No. 5); and
 - b. On April 13, 2009, submitted the data for total ammonia nitrogen daily maximum for the monitoring period ending March 31, 2008 (Conclusion of Law No. 6).

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to Tex. Water Code ch. 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2.a., Respondent failed to comply with the permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001 Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
3. As evidenced by Findings of Fact No. 2.a., Respondent failed to comply with the permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010242001 Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
4. As evidenced by Findings of Fact No. 2.a., Respondent failed to comply with the permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN.

- CODE § 305.125(1), and TPDES Permit No. WQ0010242001 Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
5. As evidenced by Findings of Fact No. 2.b., Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010242001 Sludge Provisions.
 6. As evidenced by Findings of Fact No 2.c., Respondent failed to timely submit the total ammonia nitrogen daily maximum data for the monitoring period ending March 31, 2008, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1, and TPDES Permit No. WQ0010242001 Monitoring and Reporting Requirements No. 1.
 7. As evidenced by Findings of Fact No. 3.a., Respondent failed to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities when the effluent daily average flow measurements reach 75% of the permitted daily average flow limit for three consecutive months, in violation of 30 TEX. ADMIN. CODE § 305.126(a) and TPDES Permit No. WQ0010242001 Operational Requirements No. 1.
 8. As evidenced by Findings of Fact No. 3.b., Respondent failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0010242001 Operational Requirements No. 1.
 9. As evidenced by Findings of Fact No. 3.c., Respondent failed to prevent unauthorized discharges, in violation of TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0010242001 Permit Condition 2.g.
 10. As evidenced by Findings of Fact No. 3.d., Respondent failed to report effluent violations which were more than 40 percent greater than the permit effluent limitation, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010242001 Monitoring and Reporting Requirements 7.c.
 11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
 12. An administrative penalty in the amount of forty-two thousand six hundred forty-two dollars (\$42,642.00) 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. Respondent paid one thousand three hundred forty-two dollars (\$1,342.00) of the administrative penalty. The remaining amount of forty-one thousand three hundred dollars (\$41,300.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one thousand one hundred eighty (\$1,180.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately

due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 12, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Overton, Docket No. 2009-0452-MWD-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall
 - i. Submit the noncompliance notification to TCEQ for the total suspended solids exceedance that occurred in December 2007 (Conclusion of Law No. 10);
 - ii. Remove and properly dispose of any remaining wastewater and all contaminated soil resulting from the October 9, 2008, and the February 9, 2009, discharges (Conclusion of Law No. 9);
 - iii. Remove and properly dispose of excess sludge blankets in both "old" and "new" clarifiers at the Facility (Conclusion of Law No. 8); and
 - iv. Initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities, in compliance with 30 TEX. ADMIN. CODE § 305.126 and TPDES Permit No. WQ0010242001 (Conclusion of Law No. 7).
 - b. Within 90 days after the effective date of this Agreed Order, Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ001022001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reporting discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State

of Texas Notary Public and include the following certification language.
(Conclusions of Law 2, 3, and 4)

- c. Within 105 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

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

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

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

and

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
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 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

M. Dweeney
For the Executive Director

September 17, 2012
Date

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

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

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

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

John E. Welch
Signature

7-18-12
Date

John E. Welch
Name (Printed or typed)
Authorized representative of
City of Overton

Mayor
Title