

Executive Summary – Enforcement Matter – Case No. 43228

City of Kennard

RN102078169

Docket No. 2012-0026-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

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

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

City of Kennard WWTP, located on the southeast side of Kennard on a 27 acre tract, on Elm Creek between Pine Prairie Road and Farm-to-Market Road 357, Houston County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 27, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$54,502

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: \$54,502

Name of SEP: City of Kennard WWTP Effluent Disinfection System

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

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Docket No. 2012-0026-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 27, 2011

Date(s) of NOE(s): December 21, 2011

Violation Information

1. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0011474001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1) and (5)].
2. Failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state [TPDES Permit No. WQ0011474001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].
3. Failed to record the identity of the individual who collected the effluent samples or made the effluent measurements [TPDES Permit No. WQ0011474001, Monitoring and Reporting Requirements No. 3.c.ii. and 30 TEX. ADMIN. CODE § 305.125(1)].
4. Failed to collect effluent samples at the frequency specified in the permit [TPDES Permit No. WQ0011474001, Effluent Limitations and Monitoring Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4].
5. Failed to submit monitoring results at the intervals specified in the permit [TPDES Permit No. WQ0011474001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17)].
6. Failed to prevent the discharge of sludge from the Facility into or adjacent to water in the state [TPDES Permit No. WQ0011474001, Effluent Limitations and Monitoring Requirements No. 1 and Permit Conditions No. 2.d., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].
7. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [TPDES Permit No. WQ0011474001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1) and (5)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

- a. Removed the excessive solids in the wet well of the Broadway Street lift station;

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- b. Repaired the leak at Highway 7 West Lift Station No. 1 and remediated the affected area;
- c. Began recording the identity of the individual who collects effluent samples; and
- d. Began collecting effluent samples at the frequency specified in the permit.

Technical Requirements:

- 1. The Order will require Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)
- 2. The Order will also require Respondent to:
 - a. Within 15 days, properly remove and dispose of all accumulations of sludge and blood worms in the receiving stream;
 - b. Within 30 days, submit written certification of compliance with Ordering Provision 2.a.;
 - c. Within 30 days:
 - i. Update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished;
 - ii. Submit the annual sludge report for the reporting periods ending July 31, 2009, July 31, 2010, and July 31, 2011 to the TCEQ Beaumont Regional Office; and
 - iii. Develop and implement a solids management plan (“SMP”). The SMP shall identify the appropriate range of solids to be maintained throughout the treatment units at the Facility and outline a program of internal process control testing to monitor the efficiency of the wastewater treatment and to maintain the proper solids balance at the Facility. The SMP shall be prepared by a Texas registered professional engineer or an “A” TCEQ Certified Wastewater Operator.
 - d. Within 45 days, ensure that all systems of collection, treatment, and disposal are properly operated and maintained, to include repairing and/or replacing the 90-degree, V-notch weir at the Facility; and
 - e. Within 60 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

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Docket No. 2012-0026-MWD-E

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: Jorge Ibarra, P.E., Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175,
(512) 239-2223
Respondent: The Honorable Jesse Stephens, Mayor, City of Kennard, P.O. Box 115,
Kennard, Texas 75847
Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-0026-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Kennard
Penalty Amount:	Fifty-Four Thousand Five Hundred Two Dollars (\$54,502)
SEP Offset Amount:	Fifty-Four Thousand Five Hundred Two Dollars (\$54,502)
Type of SEP:	Compliance SEP
Project Name:	<i>City of Kennard WWTP Effluent Disinfection System</i>
Location of SEP:	Houston County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent’s wastewater treatment facility. Respondent shall install a disinfection system at the wastewater treatment facility located on a 27-acre tract on Elm Creek between Pin Prairie Road and FM 357 in Houston County, Texas. Specifically, the SEP Offset Amount shall be used for materials, supplies, equipment, and engineering services for one or more of the following: chlorine contact basin, gaseous chlorine injection equipment, mixing zone and new effluent sample point (the “Project”). Respondent shall solicit bids to install the system from qualified contractors. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, and engineering services for the design of the disinfection system, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs including, but not limited to, operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry

bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
18" PVC contact basin	1	\$2,000	1	\$2,000
Gaseous chlorine system	1	\$21,500	1	\$21,500
Effluent mixer	1	\$10,000	1	\$10,000
Manholes	4	\$1,500	1	\$6,000
Electrical service extension	1	\$6,500	1	\$6,500
Engineering services for design of disinfection system	1	\$8,500	1	\$8,500
Total				\$54,500

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to-date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day time-frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to-date as set forth in the Reporting Schedule table below:

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

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Dated photographs of equipment being removed; purchased equipment; and before and after work being performed during the installation process;
4. Copies of all engineering plans related to work performed pursuant to the Project;
5. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
6. Any additional information demonstrating compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4, above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, 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
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of 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.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached 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

DATES	Assigned	3-Jan-2012	Screening	4-Jan-2012	EPA Due	
	PCW	9-Jan-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Kennard		
Reg. Ent. Ref. No.	RN102078169		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43228	No. of Violations	1
Docket No.	2012-0026-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 3
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes Enhancement for two orders containing denial of liability, one order without denial of liability, and 17 months of self-reported effluent violations.

Culpability Enhancement **Subtotal 4**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts *Capped at the Total EB \$ Amount
Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 4-Jan-2012

Docket No. 2012-0026-MWD-E

PCW

Respondent City of Kennard

Policy Revision 2 (September 2002)

Case ID No. 43228

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102078169

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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>)	17	85%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 150%

>> **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 two orders containing denial of liability, one order without denial of liability, and 17 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 150%

Screening Date 4-Jan-2012
Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 1

Docket No. 2012-0026-MWD-E

PCW

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

Rule Cite(s) TPDES Permit No. WQ0011474001, Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description

Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge reports for the reporting periods ending July 31, 2009 and July 31, 2010 to the TCEQ Beaumont Regional Office by September 30 of each year.

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 1%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events: 2 2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$200

Two single events are recommended, one for each report.

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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent City of Kennard
Case ID No. 43228
Req. Ent. Reference No. RN102078169
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)	\$100	30-Sep-2009	15-Jul-2012	2.79	\$14	n/a	\$14

Notes for DELAYED costs

Estimated cost to submit the sludge reports to the Regional Office (\$50 per report). Date required is the date the first missing report was due; and the final date is the expected date of compliance. See Violation No. 5 of the accompanying PCW for the estimated cost to update the Facility's operational guidance and conduct employee training.

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

\$14



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Jan-2012	Screening	4-Jan-2012	EPA Due	
	PCW	9-Jan-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Kennard		
Reg. Ent. Ref. No.	RN102078169		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	43228	No. of Violations	7
Docket No.	2012-0026-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$27,500
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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	100.0% Enhancement	Subtotals 2, 3, & 7	\$27,500
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Notes: Enhancement for two orders containing denial of liability, one order without denial of liability, and 17 months of self-reported effluent 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	\$998
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$319
 Approx. Cost of Compliance: \$8,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$54,002
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$54,002
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$54,002
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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	\$54,002
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Screening Date 4-Jan-2012

Docket No. 2012-0026-MWD-E

PCW

Respondent City of Kennard

Policy Revision 3 (September 2011)

Case ID No. 43228

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102078169

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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>)	17	85%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 150%

>> **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 two orders containing denial of liability, one order without denial of liability, and 17 months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 150%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 100%

Screening Date 4-Jan-2012
Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 1

Docket No. 2012-0026-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011474001, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(1) and (5)

Violation Description Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Broadway Street lift station had an excessive amount of solids in the wet well.

Base Penalty \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		x		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of October 27, 2011 to the compliance date of October 28, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$312

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

Notes: The Respondent achieved compliance by October 28, 2011 for this violation.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,188

This violation Final Assessed Penalty (adjusted for limits) \$2,188

Economic Benefit Worksheet

Respondent City of Kennard
Case ID No. 43228
Req. Ent. Reference No. RN102078169
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)	\$1,050	27-Oct-2011	28-Oct-2011	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to remove the excessive solids in the wet well of the lift station. Date required is the investigation date, and the 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

\$1,050

TOTAL

\$0

Screening Date 4-Jan-2012

Docket No. 2012-0026-MWD-E

PCW

Respondent City of Kennard

Policy Revision 3 (September 2011)

Case ID No. 43228

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102078169

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0011474001, Permit Conditions No. 2.g., 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state. Specifically, on October 27, 2011, it was documented that Highway 7 West Lift Station No. 1 had a leak, resulting in sewage being discharged on the surrounding ground.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of October 27, 2011 to the compliance date of October 28, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$312

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

Notes

The Respondent achieved compliance by October 28, 2011 for this violation.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,188

This violation Final Assessed Penalty (adjusted for limits) \$2,188

Economic Benefit Worksheet

Respondent City of Kennard
Case ID No. 43228
Red. Ent. Reference No. RN102078169
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
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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)	\$450	27-Oct-2011	28-Oct-2011	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to repair the leak at the lift station and to remediate the affected area. Date required is the investigation date, and the final date is the compliance date.

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

\$450

TOTAL

\$0

Screening Date 4-Jan-2012
Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 3

Docket No. 2012-0026-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Rule Cite(s) TPDES Permit No. WQ0011474001, Monitoring and Reporting Requirements No. 3.c.ii. and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to record the identity of the individual who collected the effluent samples or made the effluent measurements. Specifically, the daily log for recording the flow and the dissolved oxygen measurements did not contain the identity of the individual collecting the effluent measurements.

Base Penalty \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> **Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1.0%

Matrix Notes More than 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events: 1 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$62

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

Notes The Respondent achieved compliance by October 28, 2011 for this violation.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$438

This violation Final Assessed Penalty (adjusted for limits) \$438

Economic Benefit Worksheet

Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
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)	\$100	27-Oct-2011	28-Oct-2011	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to record the identity of the individual who collected the effluent samples or made the effluent measurements. Date required is the investigation date, and the final date is the compliance date.

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

\$0

Screening Date 4-Jan-2012

Docket No. 2012-0026-MWD-E

PCW

Respondent City of Kennard

Policy Revision 3 (September 2011)

Case ID No. 43228

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102078169

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s)

TPDES Permit No. WQ0011474001, Effluent Limitations and Monitoring Requirements No. 1 and 30 Tex. Admin. Code §§ 305.125(1) and 319.4

Violation Description

Failed to collect effluent samples at the frequency specified in the permit. Specifically, no Escherichia coli sample was collected during the month of September 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to monitor the effluent characteristics at the frequency specified in the permit could result in the exposure of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

30 Number of violation days

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

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$312

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

Notes The Respondent achieved compliance by October 28, 2011 for this violation.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$2,188

This violation Final Assessed Penalty (adjusted for limits) \$2,188

Economic Benefit Worksheet

Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$100	1-Sep-2011	30-Sep-2011	0.00	\$0	\$100	\$100

Notes for AVOIDED costs

Estimated cost to collect the Escherichia coli sample the month of September 2011.

Approx. Cost of Compliance

\$100

TOTAL

\$100

Screening Date 4-Jan-2012
Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 5

Docket No. 2012-0026-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Rule Cite(s) TPDES Permit No. WQ0011474001, Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description

Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2011 to the TCEQ Beaumont Regional Office by September 30 of each year.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

96 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$250

One single event is 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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
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	\$250	27-Oct-2011	15-Jul-2012	0.72	\$9	n/a	\$9
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$50	30-Sep-2011	15-Jul-2012	0.79	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished (\$250) and to submit the sludge reports to the Regional Office (\$50 per report). Dates required are the investigation date and the date the report was due and the 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

\$300

TOTAL

\$11

Screening Date 4-Jan-2012
Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 6

Docket No. 2012-0026-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Rule Cite(s) TPDES Permit No. WQ0011474001, Effluent Limitations and Monitoring Requirements No. 1 and Permit Conditions No. 2.d., 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to prevent the discharge of sludge from the Facility into or adjacent to water in the state. Specifically, sludge and bloodworms were noted in the receiving stream near the outfall and approximately 300 feet downstream of the outfall. See attached table for sample results.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			30.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Human health or the environment has been exposed to pollutants which exceeded levels that are protective of human health or environmental receptors.					

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$22,500

Three monthly events are recommended from the investigation date of October 27, 2011 to the screening date of January 4, 2012.

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 \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$170

Violation Final Penalty Total \$45,000

This violation Final Assessed Penalty (adjusted for limits) \$45,000

Economic Benefit Worksheet

Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
Media Water Quality
Violation No. 6

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	\$2,500	27-Oct-2011	1-Jul-2012	0.68	\$85	n/a	\$85
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,500	27-Oct-2011	1-Jul-2012	0.68	\$85	n/a	\$85

Notes for DELAYED costs

Estimated cost to properly remove and dispose of all accumulations of sludge and blood worms in the receiving stream and to develop and implement corrective actions to prevent the future discharge of sludge from the Facility into the receiving stream. Date required is the investigation date, and the final date is the expected compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$170

Screening Date 4-Jan-2012
Respondent City of Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2012-0026-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Violation Number

Rule Cite(s)

TPDES Permit No. WQ0011474001, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(1) and (5)

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, during the October 27, 2011 investigation, excessive corrosion was noted on the 90-degree, V-notch weir.

Base Penalty

>> **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 checked="" type="text" value="x"/>

Percent

>> **Programmatic Matrix**

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

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>	(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 Kennard
Case ID No. 43228
Reg. Ent. Reference No. RN102078169
Media Water Quality
Violation No. 7

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)	\$1,000	27-Oct-2011	1-Aug-2012	0.76	\$38	n/a	\$38

Notes for DELAYED costs

Estimated cost to properly maintain the 90-degree, V-notch weir at the Facility. Date required is the investigation date, and the 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

\$1,000

TOTAL

\$38

City of Kennard
RN102078169, Case No. 43228, TPDES Permit No. WQ0011474001
2012-0026-MWD-E
Jorge Ibarra, P.E.

Corresponds to Violation Number:

6

EFLUENT PARAMETER
Units/Permit Limit

	Ammonia	Orthophosphate	Phosphorous	TKN	TOC	COD	E.coli
Location	mg/L	mg/L	mg/L	mg/L	mg/L	mg/L	394 MPN/100 ml
Outfall	26.3	3.27	np	np	42	129	2,400
300 feet downstream	53.9	40.7	37.6	55.9	134	376	np
Upstream	0.11	0.04	0.02	1.29	2	10	np

Name
milligrams per liter - mg/L
Total Kjeldahl Nitrogen - TKN
Total Organic Carbon - TOC
Chemical Oxygen Demand - COD
most probable number - MPN
milliliters - ml
not performed - np
E. coli - Escherichia coli

Compliance History

Customer/Respondent/Owner-Operator: CN600685036 City of Kennard Classification: Rating: 5.60
AVERAGE

Regulated Entity: RN102078169 CITY OF KENNARD Classification: Site Rating: 5.60
AVERAGE

ID Number(s): WASTEWATER PERMIT WQ0011474001
WASTEWATER EPA ID TX0056596

Location: located on the southeast side of Kennard on a 27 acre tract, on Elm Creek between Pine
Prairie Road and Farm-to-Market Road 357 in Houston County, Texas

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: January 04, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 04, 2007 to January 04, 2012

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 11/09/2007

ADMINORDER 2007-0510-MWD-E

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT

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

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

Effective Date: 05/03/2009

ADMINORDER 2008-1710-MWD-E

Classification: Moderate

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

Rqmt Prov: WQ11474-001 EL&MR Pg 2, No 1 PERMIT

Description: Failure by City of Kennard (WWTP) to discharge effluent compliant with permit limitations for Biochemical Oxygen Demand (BOD).

Classification: Moderate

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

Rqmt Prov: WQ11474-001 M&RR Pg 6, No 7c PERMIT

Description: Failure by the City of Kennard to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
Rqmt Prov: WQ11474-001 M&RR Pg 5, No 3(c)(ii) PERMIT
Description: Failure by the City of Kennard to maintain records of monitoring activities, which includes the identity of the individual who made the measurement.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: WQ11474-001 Permit Condition 2.d. PERMIT

Description: Failure by the City of Kennard to prevent unauthorized discharge of sludge into or adjacent to water in the state.

Effective Date: 07/02/2011

ADMINORDER 2011-0079-MWD-E

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits for 5-day biochemical oxygen demand as documented by a TCEQ record review of self-reported data.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	03/22/2007	(542553)
2	01/24/2007	(548956)
3	02/20/2007	(582311)
4	04/30/2007	(582312)
5	05/31/2007	(582313)
6	07/02/2007	(603555)
7	07/30/2007	(603556)
8	08/13/2007	(603557)
9	09/13/2007	(603558)
10	10/18/2007	(622110)
11	12/03/2007	(622111)
12	12/27/2007	(622112)
13	02/04/2008	(673924)
14	08/20/2008	(685500)
15	07/07/2008	(692181)
16	04/02/2008	(692182)
17	05/05/2008	(692183)
18	06/09/2008	(713269)
19	06/26/2008	(713270)
20	08/11/2008	(713271)
21	09/02/2008	(713272)
22	10/16/2008	(713273)
23	10/27/2008	(729383)
24	12/22/2008	(729384)
25	02/09/2009	(752588)
26	03/20/2009	(752589)
27	04/19/2009	(752590)

28	12/08/2008	(752591)
29	01/29/2009	(752592)
30	05/20/2009	(770206)
31	06/15/2009	(770207)
32	11/24/2009	(781750)
33	02/27/2010	(810279)
34	07/20/2009	(810280)
35	08/19/2009	(810281)
36	09/20/2009	(810282)
37	10/20/2009	(810283)
38	11/20/2009	(810284)
39	12/21/2009	(810285)
40	01/20/2010	(810286)
41	03/20/2010	(832841)
42	04/22/2010	(832842)
43	05/24/2010	(832843)
44	06/20/2010	(846888)
45	07/20/2010	(861386)
46	08/21/2010	(867613)
47	09/21/2010	(874604)
48	10/20/2010	(882169)
49	01/06/2011	(886051)
50	11/22/2010	(888649)
51	12/20/2010	(896999)
52	01/20/2011	(902921)
53	02/20/2011	(909788)
54	03/20/2011	(917015)
55	04/20/2011	(927124)
56	05/21/2011	(938716)
57	06/20/2011	(946090)
58	07/20/2011	(953352)
59	09/25/2011	(959991)
60	09/25/2011	(966040)
61	11/28/2011	(968373)
62	10/26/2011	(972068)
63	12/21/2011	(974198)

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

Date:	03/31/2007	(582312)	CN600685036
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2007	(603557)	CN600685036
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	(622110)	CN600685036	
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:	04/30/2008	(713269)	CN600685036	
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	(713270)	CN600685036	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/31/2009	(770207)	CN600685036	
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	(810279)	CN600685036	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/31/2010	(846888)	CN600685036	
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	(861386)	CN600685036	
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	(874604)	CN600685036	
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	(882169)	CN600685036	
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	01/31/2011	(909788)	CN600685036	
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	04/30/2011	(938716)	CN600685036	
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 05/31/2011 (946090) CN600685036

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 06/30/2011 (953352) CN600685036

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 07/31/2011 (959991) CN600685036

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 09/30/2011 (972068) CN600685036

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 KENNARD
RN102078169**

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

AGREED ORDER DOCKET NO. 2012-0026-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 Kennard (“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 on the southeast side of Kennard on a 27 acre tract, on Elm Creek between Pine Prairie Road and Farm-to-Market Road 357 in Houston 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 an investigation on October 27, 2011, TCEQ staff documented that the Broadway Street lift station had an excessive amount of solids in the wet well.
4. During an investigation on October 27, 2011, TCEQ staff documented that the Respondent did not prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state. Specifically, it was documented that the Highway 7 West Lift Station No. 1 had a leak, resulting in sewage being discharged on the surrounding ground.
5. During an investigation on October 27, 2011, TCEQ staff documented that the Respondent did not record the identity of the individual who collected the effluent samples or made the effluent measurements. Specifically, the daily log for recording the flow and the dissolved oxygen measurements did not contain the identity of the individual collecting the effluent measurements.
6. During an investigation on October 27, 2011, TCEQ staff documented that the Respondent did not collect an *Escherichia coli* sample during the month of September 2011.
7. During an investigation on October 27, 2011, TCEQ staff documented, the Respondent did not submit the annual sludge reports for the reporting periods ending July 31, 2009, July 31, 2010, and July 31, 2011 to the TCEQ Beaumont Regional Office by September 30 of each year.
8. During an investigation on October 27, 2011, TCEQ staff documented that the Respondent did not prevent the discharge of sludge from the Facility into or adjacent to water in the state. Specifically, sludge and bloodworms were noted in the receiving stream near the outfall and approximately 300 feet downstream of the outfall, as shown in the table below:

EFFLUENT PARAMETER							
Units/Permit Limit							
	Ammonia	Orthophosphate	Phosphorous	TKN	TOC	COD	E.coli
Location	mg/L	mg/L	mg/L	mg/L	mg/L	mg/L	394 MPN /100 ml
Outfall	26.3	3.27	np	np	42	129	2,400
300 feet Downstream	53.9	40.7	37.6	55.9	134	376	np
Upstream	0.11	0.04	0.02	1.29	2	10	np

milligrams per liter = mg/L; milliliters = ml; not performed = np; total kjeldahl nitrogen = TKN; total organic carbon = TOC; E. coli = Escherichia coli; chemical oxygen demand = COD; most probable number = MPN

9. During an investigation on October 27, 2011, TCEQ staff documented excessive corrosion on the 90-degree, V-notch weir.
10. The Respondent received notice of the violations on December 26, 2011.
11. The Executive Director recognizes that by October 28, 2011, the Respondent has implemented the following corrective measures at the Facility:
 - a. Removed the excessive solids in the wet well of the Broadway Street lift station;
 - b. Repaired the leak at Highway 7 West Lift Station No. 1 and remediated the affected area;
 - c. Began recording the identity of the individual who collects effluent samples; and
 - d. Began collecting effluent samples at the frequency specified in the permit.

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 ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011474001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1) and (5).

3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, in violation of TPDES Permit No. WQ0011474001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to record the identity of the individual who collected the effluent samples or made the effluent measurements, in violation of TPDES Permit No. WQ0011474001, Monitoring and Reporting Requirements No. 3.c.ii. and 30 TEX. ADMIN. CODE § 305.125(1).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to collect effluent samples at the frequency specified in the permit, in violation of TPDES Permit No. WQ0011474001, Effluent Limitations and Monitoring Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4.
6. As evidenced by Findings of Fact No. 7, the Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of TPDES Permit No. WQ0011474001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17).
7. As evidenced by Findings of Fact No. 8, the Respondent failed to prevent the discharge of sludge from the Facility into or adjacent to water in the state, in violation of TPDES Permit No. WQ0011474001, Effluent Limitations and Monitoring Requirements No. 1 and Permit Conditions No. 2.d., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).
8. As evidenced by Findings of Fact No. 9, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0011474001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
9. 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.
10. An administrative penalty in the amount of Fifty-Four Thousand Five Hundred Two Dollars (\$54,502) 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. Fifty-Four Thousand Five Hundred Two Dollars (\$54,502) 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 Fifty-Four Thousand Five Hundred Two Dollars (\$54,502) as set forth in Section II, Paragraph 10 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 Kennard, Docket No. 2012-0026-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 10 above, Fifty-Four Thousand Five Hundred Two Dollars (\$54,502) 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 15 days after the effective date of this Agreed Order, properly remove and dispose of all accumulations of sludge and blood worms in the receiving stream;
 - b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a., in accordance with Order Provision No. 3.e. below;
 - c. 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, in accordance with TPDES Permit No. WQ0011474001, Sludge Provisions;

- ii. Submit the annual sludge report for the reporting periods ending July 31, 2009, July 31, 2010, and July 31, 2011 to the TCEQ Beaumont Regional Office; and
- iii. Develop and implement a solids management plan ("SMP"). The SMP shall identify the appropriate range of solids to be maintained throughout the treatment units at the Facility and outline a program of internal process control testing to monitor the efficiency of the wastewater treatment and to maintain the proper solids balance at the Facility. The SMP shall be prepared by a Texas registered professional engineer or an "A" TCEQ Certified Wastewater Operator.
- d. Within 45 days after the effective date of this Agreed Order, ensure that all systems of collection, treatment, and disposal are properly operated and maintained, to include repairing and/or replacing the 90-degree, V-notch weir at the Facility, in accordance with TPDES Permit No. WQ0011474001, Operational Requirements No. 1;
- e. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.c. and 3.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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

Ron Sawin
For the Executive Director

9/25/12

Date

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

Jesse Stephens
Signature

JUNE 8, 2012
Date

Jesse Stephens
Name (Printed or typed)
Authorized Representative of
City of Kennard

MAYOR
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: 2012-0026-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Kennard
Penalty Amount:	Fifty-Four Thousand Five Hundred Two Dollars (\$54,502)
SEP Offset Amount:	Fifty-Four Thousand Five Hundred Two Dollars (\$54,502)
Type of SEP:	Compliance SEP
Project Name:	<i>City of Kennard WWTP Effluent Disinfection System</i>
Location of SEP:	Houston County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent’s wastewater treatment facility. Respondent shall install a disinfection system at the wastewater treatment facility located on a 27-acre tract on Elm Creek between Pin Prairie Road and FM 357 in Houston County, Texas. Specifically, the SEP Offset Amount shall be used for materials, supplies, equipment, and engineering services for one or more of the following: chlorine contact basin, gaseous chlorine injection equipment, mixing zone and new effluent sample point (the “Project”). Respondent shall solicit bids to install the system from qualified contractors. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, and engineering services for the design of the disinfection system, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs including, but not limited to, operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry

bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
18" PVC contact basin	1	\$2,000	1	\$2,000
Gaseous chlorine system	1	\$21,500	1	\$21,500
Effluent mixer	1	\$10,000	1	\$10,000
Manholes	4	\$1,500	1	\$6,000
Electrical service extension	1	\$6,500	1	\$6,500
Engineering services for design of disinfection system	1	\$8,500	1	\$8,500
Total				\$54,500

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to-date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day time-frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to-date as set forth in the Reporting Schedule table below:

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

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Dated photographs of equipment being removed; purchased equipment; and before and after work being performed during the installation process;
4. Copies of all engineering plans related to work performed pursuant to the Project;
5. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
6. Any additional information demonstrating compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4, above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, 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
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of 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.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached 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.