

**Executive Summary – Enforcement Matter – Case No. 41819**

**City of Van Alstyne**

**RN102844123**

**Docket No. 2011-0940-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

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

**Media:**

MWD

**Small Business:**

No

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

City of Van Alstyne, located 0.4 mile south of Farm-to-Market (“FM”) Road 121 and 1.55 miles east of the intersection of State Highway 5 and FM Road 121, Grayson County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 20, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$30,845

**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:** \$30,845

Name of SEP: Texas Association of Resource Conservation & Development Areas -

Household Hazardous Waste

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41819**  
**City of Van Alstyne**  
**RN102844123**  
**Docket No. 2011-0940-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** May 9, 2011  
**Date(s) of NOE(s):** May 18, 2011

***Violation Information***

Failed to comply with permitted effluent limits for 5-day carbonaceous biochemical oxygen demand, fecal coliform, ammonia nitrogen, dissolved oxygen, and total suspended solids [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010502001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**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, within 90 days, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010502001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations.

***Litigation Information***

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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223

**Executive Summary – Enforcement Matter – Case No. 41819**  
**City of Van Alstyne**  
**RN102844123**  
**Docket No. 2011-0940-MWD-E**

**Respondent:** Philip A. Rodriguez, City Manager, City of Van Alstyne, P.O. Box 247,  
Van Alstyne, Texas 75495

The Honorable Ruth Ann Collins, Mayor, City of Van Alstyne, P.O. Box 247, Van  
Alstyne, Texas 75495

**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2011-0940-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Van Alstyne
<b>Penalty Amount:</b>	Thirty Thousand Eight Hundred Forty-Five Dollars (\$30,845)
<b>SEP Offset Amount:</b>	Thirty Thousand Eight Hundred Forty-Five Dollars (\$30,845)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Recipient
<b>Third-Party Recipient:</b>	Texas Association of Resource Conservation & Development Areas
<b>Project Name:</b>	<i>Household Hazardous Waste</i>
<b>Location of SEP:</b>	Red River and Trinity River Basins; Edwards-Trinity Plateau Aquifer; Grayson County Preference

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Texas Association of Resource Conservation & Development Areas (“RC&D”)** for the *Household Hazardous Waste Collection* SEP. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to provide a day for local residents to bring in household hazardous waste (“HHW”) such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers for proper disposal. Where possible, the projects may also offer electronics collection and recycling. The project will be administered in accordance with TCEQ guidance on HHW, and in compliance with federal, state, and local environmental laws and regulations. The SEP Offset Amount will be used solely for the direct costs of collection, recycling, and disposal of wastes.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment.

Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director, be applied to another pre-approved SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Respondent’s signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

**B. Environmental Benefit**

The SEP provides a means of properly disposing of HHW which might otherwise be disposed of in storm drains, the sewerage system, or other means detrimental to the environment.

**C. Minimum Expenditure**

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

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

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

**4. 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 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to 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 the 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

**5. Publicity**

Any public statements concerning this SEP and/or 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.

**6. Clean Texas Program**

Respondent shall not include this SEP 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.

**7. 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	23-May-2011	Screening	7-Jun-2011	EPA Due	
	PCW	14-Jun-2011				

## RESPONDENT/FACILITY INFORMATION

Respondent	City of Van Alstyne		
Reg. Ent. Ref. No.	RN102844123		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	41819	No. of Violations	3	
Docket No.	2011-0940-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Government/Non-Profit	Yes	
Multi-Media		Enf. Coordinator	Cheryl Thompson	
		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$15,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>110.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$17,050</b>
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Notes: Enhancement for 20 months of self-reported effluent violations and two NOV's with same/similar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$877  
 Approx. Cost of Compliance: \$10,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$32,550</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>-5.2%</b>	<b>Adjustment</b>	<b>-\$1,705</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount and to prevent double-enhancement of the penalty amount for some violations that were not self-reported.

<b>Final Penalty Amount</b>	<b>\$30,845</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$30,845</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$30,845</b>
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Screening Date 7-Jun-2011

Docket No. 2011-0940-MWD-E

PCW

Respondent City of Van Alstyne

Policy Revision 2 (September 2002)

Case ID No. 41819

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844123

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

### 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> )	22	110%
	Other written NOVs	0	0%
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) 110%

>> 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 20 months of self-reported effluent violations and two NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 110%

**Screening Date** 7-Jun-2011  
**Respondent** City of Van Alstyne  
**Case ID No.** 41819  
**Reg. Ent. Reference No.** RN102844123  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Cheryl Thompson  
**Violation Number** 1

**Docket No.** 2011-0940-MWD-E

**PCW**

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

**Rule Cite(s)** Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010502001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

**Violation Description** Failed to comply with permitted effluent limits, as documented during a record review conducted on May 9, 2011. See attached table.

**Base Penalty** \$10,000

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

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

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Dissolved oxygen, total suspended solids and fecal coliform 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   Number of violation days

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

**Violation Base Penalty** \$3,000

Three quarterly events are recommended, for the quarters containing the months of August, September and December 2010.

**Good Faith Efforts to Comply**

**0.0%** Reduction

\$0

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

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

**Violation Subtotal** \$3,000

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** \$877

**Statutory Limit Test**

**Violation Final Penalty Total** \$5,970

**This violation Final Assessed Penalty (adjusted for limits)** \$5,970

# Economic Benefit Worksheet

**Respondent** City of Van Alstyne  
**Case ID No.** 41819  
**Reg. Ent. Reference No.** RN102844123  
**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	30-Jun-2010	31-Mar-2012	1.75	\$877	n/a	\$877

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the month the first non-compliant excursion was documented. Final date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$877

**Screening Date** 7-Jun-2011  
**Respondent** City of Van Alstyne  
**Case ID No.** 41819  
**Reg. Ent. Reference No.** RN102844123  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Cheryl Thompson

**Docket No.** 2011-0940-MWD-E

**PCW**

*Policy Revision 2 / September 2002*  
*PCW Revision October 30, 2008*

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

TPDES Permit No. WQ0010502001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

**Violation Description** Failed to comply with permitted effluent limits, as documented during a record review conducted on May 9, 2011. See attached table.

**Base Penalty**

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

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

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Fecal coliform 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 do not exceed levels that are protective of human health or the environment as a result of this violation.

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

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

**Violation Base Penalty**

One monthly event is recommended for the month of June 2010.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDRP/Settlement Offer
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**

**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 Van Alstyne  
**Case ID No.** 41819  
**Reg. Ent. Reference No.** RN102844123  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)				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** 7-Jun-2011  
**Respondent** City of Van Alstyne  
**Case ID No.** 41819  
**Reg. Ent. Reference No.** RN102844123  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Cheryl Thompson

**Docket No.** 2011-0940-MWD-E

**PCW**

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

**Violation Number** 3

**Rule Cite(s)**

TPDES Permit No. WQ0010502001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

**Violation Description**

Failed to comply with permitted effluent limits, as documented during a record review conducted on May 9, 2011. See attached table.

**Base Penalty** \$10,000

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

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

**Percent** 50%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0%

**Matrix Notes**

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Fecal coliform and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or the environment as a result of this violation.

**Adjustment** \$5,000

\$5,000

**Violation Events**

Number of Violation Events 2 59 Number of violation days

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

**Violation Base Penalty** \$10,000

Two monthly events are recommended for the months of January and February 2011.

**Good Faith Efforts to Comply**

0.0% Reduction

\$0

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

**Notes**

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

**Violation Subtotal** \$10,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$19,900

**This violation Final Assessed Penalty (adjusted for limits)** \$19,900

# Economic Benefit Worksheet

**Respondent** City of Van Alstyne  
**Case ID No.** 41819  
**Reg. Ent. Reference No.** RN102844123  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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

EFFLUENT VIOLATION TABLE

CITY OF VAN ALSTYNE

DOCKET NO. 2011-0940-MWD-E; RN102844123

TPDES PERMIT NO. WQ0010502001; CASE NO. 41819

	June 2010	August 2010	September 2010	December 2010	January 2011	February 2011
CBOD <sub>5</sub> Daily Avg. 10 mg/L	c	c	c	c	10.1	c
CBOD <sub>5</sub> Daily Max 25 mg/L	c	c	40	c	c	c
Fecal Coliform Daily Avg. 200 CFU/100	389.69	c	c	c	914.44	472.9
Fecal Coliform 7 Day Daily Avg. 400 CFU/100	1,045.4 5	444.24	489.93	c	32,391.85	2,490.44
NH <sub>3</sub> -N Daily Avg. 2 mg/L	5.63	c	c	2.18	3.91	c
NH <sub>3</sub> -N Daily Max 10 mg/L	c	c	c	c	13	c
DO Monthly Min 4 mg/L	3.4	3.9	c	c	c	c
TSS Daily Avg. Conc. 15 mg/L	c	c	32.6	c	c	19.33
TSS Daily Max 40 mg/L	c	c	130	c	c	61
TSS Daily Avg. Loading 119 lbs/day	c	c	120.443	c	c	c

mg/L = milligrams per liter; CBOD<sub>5</sub> = carbonaceous biochemical oxygen demand (5-day)  
 lbs/day = pounds per day; TSS = total suspended solids; c = compliant; avg. = average;  
 min. = minimum; max. = maximum; conc. = concentration; DO = dissolved oxygen;  
 NH<sub>3</sub>-N = ammonia nitrogen



## Compliance History

Customer/Respondent/Owner-Operator:	CN600339261      City of Van Alstyne	Classification: AVERAGE	Rating: 2.39
Regulated Entity:	RN102844123      CITY OF VAN ALSTYNE	Classification: AVERAGE	Site Rating: 1.15
ID Number(s):	WASTEWATER                      PERMIT WASTEWATER                      EPA ID WASTEWATER LICENSING              LICENSE		WQ0010502001 TX0026883 WQ0010502001
Location:	located 0.4 mile south of Farm-to-Market Road 121 and 1.55 miles east of the intersection of State Highway 5 and Farm-to-Market Road 121 in Grayson County, Texas		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	June 07, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 07, 2006 to June 07, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Cheryl Thompson</u>	Phone:	<u>(817) 588-5886</u>

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

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

1	06/19/2006	(499951)
2	07/21/2006	(522044)
3	08/11/2006	(522045)
4	09/14/2006	(522046)
5	02/23/2007	(541284)
6	10/12/2006	(546708)
7	11/13/2006	(546709)
8	12/18/2006	(546710)
9	05/30/2007	(562043)
10	09/12/2007	(574475)
11	02/22/2007	(578962)
12	03/15/2007	(578963)
13	04/12/2007	(578964)
14	05/18/2007	(578965)
15	06/20/2007	(578966)
16	01/10/2007	(578967)
17	07/16/2007	(602655)
18	08/21/2007	(602656)

19	09/14/2007	(602657)
20	02/11/2008	(617460)
21	10/19/2007	(620910)
22	12/03/2007	(620911)
23	12/27/2007	(620912)
24	01/23/2008	(673090)
25	02/15/2008	(691208)
26	03/14/2008	(691209)
27	04/14/2008	(691210)
28	05/21/2008	(691211)
29	06/18/2008	(712068)
30	07/24/2008	(712069)
31	08/18/2008	(712070)
32	09/15/2008	(712071)
33	10/20/2008	(712072)
34	11/21/2008	(728455)
35	12/22/2008	(728456)
36	02/23/2009	(751548)
37	01/20/2009	(751549)
38	03/24/2009	(769279)
39	04/22/2009	(769280)
40	05/19/2009	(769281)
41	01/06/2010	(786449)
42	02/01/2010	(787275)
43	02/24/2010	(807613)
44	06/24/2009	(807614)
45	07/14/2009	(807615)
46	09/11/2009	(807616)
47	09/15/2008	(807617)
48	09/18/2009	(807618)
49	02/24/2010	(807619)
50	11/23/2009	(807620)
51	12/23/2009	(807621)
52	02/24/2010	(807622)
53	03/17/2010	(831960)
54	04/22/2010	(831961)
55	05/24/2010	(831962)
56	08/23/2010	(844138)
57	06/22/2010	(846603)
58	08/09/2010	(867238)
59	10/07/2010	(874287)
60	09/23/2010	(874288)
61	10/21/2010	(881880)
62	11/22/2010	(888369)
63	12/22/2010	(896656)
64	01/31/2011	(902654)
65	02/25/2011	(909449)
66	03/23/2011	(916708)
67	05/20/2011	(919500)

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

Date: 02/23/2007 (541284)

CN600339261

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.4(a)(8)  
 Description: Failure to have the reduced pressure backflow prevention assembly (RPBA) device tested annually as required.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010502-001 PERMIT  
 Description: Failure to properly maintain the effluent flow measuring device.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010502-001 PERMIT  
 Description: Failure to comply with permit limitations.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Description: Failure to make the necessary records available for review.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)  
 Description: Failure to accurately calculate and report daily average fecal coliform bacteria concentrations.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010502-001 PERMIT  
 Description: Failure to provide noncompliance notification as required.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010502-001 PERMIT  
 Description: Failure to complete closure of the abandoned ponds.  
 Date: 06/30/2007 (602655) CN600339261

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 (620911) CN600339261

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 (620912) CN600339261

Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 06/30/2008 (712069) CN600339261

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: 07/31/2008 (712070) CN600339261

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: 08/30/2008 (712071) CN600339261

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 (807617) CN600339261

Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 06/30/2009 (807615) CN600339261

Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date 07/31/2009 (807616) CN600339261  
 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 08/31/2009 (807618) CN600339261  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date 09/30/2009 (807619) CN600339261  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date 10/31/2009 (807620) CN600339261  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date 12/31/2009 (807622) CN600339261  
 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 01/29/2010 (787275) CN600339261  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.4(a)(8)  
 30 TAC Chapter 317 317.7(i)

Description: Failure to have the RPZ backflow prevention device installed on the main potable line to the WWTP tested annually.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to properly maintain the effluent flow measuring device.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to submit noncompliance notifications, as required by the permit.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to comply with permit limits.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to maintain required records.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to submit the pH and dissolved oxygen (DO) results on the discharge monitoring reports (DMRs).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to calculate effluent loadings correctly.  
 Date 02/28/2010 (831960) CN600339261  
 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 (874287) CN600339261  
 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 (874288) CN600339261  
 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	(881880)	CN600339261	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2010	(902654)	CN600339261	
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	(909449)	CN600339261	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/28/2011	(916708)	CN600339261	
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 VAN ALSTYNE  
RN102844123**

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

## **AGREED ORDER DOCKET NO. 2011-0940-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 Van Alstyne (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility located 0.4 mile south of Farm-to-Market Road 121 and 1.55 miles east of the intersection of State Highway 5 and Farm-to-Market Road 121 in Grayson County, Texas (the “Facility”).

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. During a record review on May 9, 2011, TCEQ staff documented that the Respondent exceeded the permitted effluent limits as shown in the table below:

	June 2010	August 2010	September 2010	December 2010	January 2011	February 2011
CBOD5 Daily Avg. 10 mg/L	c	c	c	c	10.1	c
CBOD5 Daily Max 25 mg/L	c	c	40	c	c	c
Fecal Coliform Daily Avg. 200 CFU/100	389.69	c	c	c	914.44	472.9
Fecal Coliform 7 Day Daily Avg. 400 CFU/100	1,045.4 5	444.24	489.93	c	32,391.85	2,490.44
NH3-N Daily Avg. 2 mg/L	5.63	c	c	2.18	3.91	c
NH3-N Daily Max 10 mg/L	c	c	c	c	13	c
DO Monthly Min 4 mg/L	3.4	3.9	c	c	c	c
TSS Daily Avg. Conc. 15 mg/L	c	c	32.6	c	c	19.33
TSS Daily Max 40 mg/L	c	c	130	c	c	61
TSS Daily Avg. Loading 119 lbs/day	c	c	120.443	c	c	c

mg/L = milligrams per liter; CBOD5 = carbonaceous biochemical oxygen demand (5-day);  
 lbs/day = pounds per day; TSS = total suspended solids; c = compliant; avg. = average;  
 min. = minimum; max. = maximum conc. = concentration; DO = dissolved oxygen;  
 NH3-N = ammonia nitrogen

4. The Respondent received notice of the violations on May 23, 2011.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010502001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a).
3. 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.
4. An administrative penalty in the amount of Thirty Thousand Eight Hundred Forty-Five Dollars (\$30,845) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Thirty Thousand Eight Hundred Forty-Five Dollars (\$30,845) 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 Thirty Thousand Eight Hundred Forty-Five Dollars (\$30,845) as set forth in Section II, Paragraph 4 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 Van Alstyne, Docket No. 2011-0940-MWD-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Conclusions of Law Section II, Paragraph 4 above, Thirty Thousand Eight Hundred Forty-Five Dollars (\$30,845) of the assessed administrative penalty shall be offset with the condition that 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. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010502001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this

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

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

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

10/26/12  
Date

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

I understand that by entering into this Agreed Order, the City of Van Alstyne 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.

  
Signature

May 4, 2012  
Date

Philip A. Rodriguez  
Name (Printed or typed)  
Authorized Representative of  
City of Van Alstyne

City Manager  
Title

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



**Attachment A**  
**Docket Number: 2011-0940-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Van Alstyne
<b>Penalty Amount:</b>	Thirty Thousand Eight Hundred Forty-Five Dollars (\$30,845)
<b>SEP Offset Amount:</b>	Thirty Thousand Eight Hundred Forty-Five Dollars (\$30,845)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Recipient
<b>Third-Party Recipient:</b>	Texas Association of Resource Conservation & Development Areas
<b>Project Name:</b>	<i>Household Hazardous Waste</i>
<b>Location of SEP:</b>	Red River and Trinity River Basins; Edwards-Trinity Plateau Aquifer; Grayson County Preference

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Texas Association of Resource Conservation & Development Areas (“RC&D”)** for the *Household Hazardous Waste Collection* SEP. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to provide a day for local residents to bring in household hazardous waste (“HHW”) such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers for proper disposal. Where possible, the projects may also offer electronics collection and recycling. The project will be administered in accordance with TCEQ guidance on HHW, and in compliance with federal, state, and local environmental laws and regulations. The SEP Offset Amount will be used solely for the direct costs of collection, recycling, and disposal of wastes.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment.

Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director, be applied to another pre-approved SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Respondent’s signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

The SEP provides a means of properly disposing of HHW which might otherwise be disposed of in storm drains, the sewerage system, or other means detrimental to the environment.

C. Minimum Expenditure

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

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

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

**4. 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 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to 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 the 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

**5. Publicity**

Any public statements concerning this SEP and/or 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.

**6. Clean Texas Program**

Respondent shall not include this SEP 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.

**7. 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.