

City of Orange
RN101613644
Docket No. 2011-0552-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 (violation no. 1).

Media:

MWD

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

402 South 10th Street, Orange, Orange County

Type of Operation:

wastewater treatment facility

Other Significant Matters:

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

Texas Register Publication Date: May 11, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$98,350

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

SEP Conditional Offset: \$98,350

Custom Compliance SEP - *Upgrade Jackson Street Wastewater Treatment Plant*

Compliance History Classifications:

Person/CN – Average
 Site/RN – Average

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 16, 2011

Date(s) of NOV(s): See Compliance History – 27 related NOVs

Date(s) of NOE(s): March 25, 2011

City of Orange
RN101613644
Docket No. 2011-0552-MWD-E

Violation Information

Failed to comply with permitted effluent limitations [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010626001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 90 days, and on a semi-annual basis thereafter until such time as written certification of compliance with Technical Requirement No. 4 has been submitted, provide a report to the Commission documenting the progress of the corrective actions that are planned and/or have been completed to achieve and maintain compliance with the permitted effluent limits.
2. Within 180 days, conduct an engineering evaluation of the Facility and the associated collection system to evaluate the cause of and necessary corrective actions designed to achieve and maintain compliance with the permitted effluent limits. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions, which shall be completed within 545 days.
3. Within 560 days, submit written certification to demonstrate compliance with Technical Requirement No. 2.
4. Within 665 days, submit written certification demonstrating three consecutive months of compliance with the permitted effluent limits of TPDES Permit No. WQ0010626001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports.

Litigation Information

Date Petition(s) Filed: October 14, 2011

Date Answer(s) Filed: October 21, 2011

SOAH Referral Date: December 1, 2011

Hearing Date(s):

Preliminary hearing: February 2, 2012 (waived)

Evidentiary hearing: June 21, 2012 (scheduled)

Settlement Date: April 10, 2012

Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: Sharon Blue, Litigation Division, (512) 239-2223

TCEQ Enforcement Coordinator: JR Cao, Water Enforcement Division, (512) 239- 2543

TCEQ Regional Contact: Ronald Hebert, Beaumont Regional Office, (409) 898-3838

Respondent: The Honorable W. Brown Claybar, Mayor, Post Office Box 520, Orange, Texas 77631

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0552-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Orange
Penalty Amount:	Ninety-Eight Thousand Three Hundred Fifty Dollars (\$98,350)
SEP Offset Amount:	Ninety-Eight Thousand Three Hundred Fifty Dollars (\$98,350)
Type of SEP:	Custom Compliance SEP
Project Name:	<i>Upgrade Jackson Street Wastewater Treatment Plant</i>
Location of SEP:	Orange 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 shall upgrade the infrastructure at the Jackson Street Wastewater Treatment Plant (“WWTP”) by replacing the ultra-violet (“UV”) disinfection equipment, modifying the effluent channel, and replacing the effluent flow meter. The SEP Offset Amount shall be used for materials, supplies, and equipment costs for one or more of the following: modifying the existing channel structures; the purchase of UV equipment; the purchase of the pre-engineered cover for UV structure; and the purchase of the flow meter (the “Project”). Respondent shall hire a contractor to provide upgrades to the UV disinfection system and effluent flow pacing at the WWTP. Any advertisement, including signage, related to the SEP portion of the WWTP improvement project 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. No portion 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 to comply with all other provisions of this SEP.

Estimated Cost Schedule

Construction Costs:	Quantity	Cost	Total
Mobilization	1	\$7,500	\$7,500
Remove Existing UV Equipment	1	\$15,000	\$15,000
Modify Existing Channel Structures	1	\$25,000	\$25,000
Proposed UV Equipment	1	\$700,000	\$700,000
Equipment Installation	1	\$75,000	\$75,000
Pre-Engineered Cover for UV Structure	1	\$50,000	\$50,000
Flow Meter	1	\$42,000	\$42,000
Electrical and Controls	1	\$50,000	\$50,000
Materials Testing	1	\$5,000	\$5,000
Total Construction Costs			\$969,500

Engineering Services:	Quantity	Cost	Total
Preliminary Design & Field Study	1	\$20000	\$20,000
Basic Engineering Design (Plans & Specs)	1	\$55000	\$55,000
Geotechnical Investigation	1	\$7000	\$7,000
Bidding	1	\$5800	\$5,800
Construction Administration	1	\$25000	\$25,000
Project Field Representative (Part-time)	1	\$37500	\$37,500
Total			\$150,300
Total Compliance Costs			\$1,119,800

2. Performance Schedule

Within 30 days after the effective date of the attached Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall complete the SEP in its entirety within 665 days after the effective date of the Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of the attached Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing all actions performed to-date to implement the Project. Within 90 days of the effective date of the 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 665-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 performed to implement the Project
90	Actions completed during previous 60-day period or proof that the SEP Offset Amount has been expended on allowable items.
180	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
270	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
365	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
455	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
545	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
665	Notice of SEP completion

B. Final Report

Within 665 days after the effective date of the Agreed Order, or within 60 days after the SEP Offset Amount has been fully expended, whichever is earlier, Respondent shall submit a Final Report to the TCEQ. Once TCEQ approves the Final Report, the SEP shall be considered complete. The Final Report shall include the following:

1. Itemized list of expenditures and total cost of the Project;

2. Copies of invoices, paid receipts, cleared checks, or other payment records corresponding to the itemized list of expenditures required by Section 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.

All records listed above verifying appropriate expenditures and the completion of the Project must be submitted with the Final Report.

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 78711-31087

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 fully 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.

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Apr-2011	Screening	6-Apr-2011	EPA Due	5-Jun-2011
	PCW	20-Dec-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Orange		
Reg. Ent. Ref. No.	RN101613644		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	41453	No. of Violations	3
Docket No.	2011-0552-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$35,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	184.0% Enhancement	Subtotals 2, 3, & 7	\$64,400
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Notes: Enhancement for 27 months of self-reported effluent violations, one NOV with same/similar violation, two NOVs with dissimilar violations, and two orders with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$102,507
 Approx. Cost of Compliance: \$500,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$99,400
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-1.1%	Adjustment	-\$1,050
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction in penalty to prevent double-enhancement of self-reported violations.

Final Penalty Amount	\$98,350
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$98,350
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$98,350
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Screening Date 6-Apr-2011

Docket No. 2011-0552-MWD-E

PCW

Respondent City of Orange

Case ID No. 41453

Policy Revision 2 (September 2002)

Reg. Ent. Reference No. RN101613644

Media [Statute] Water Quality

PCW Revision October 30, 2008

Enf. Coordinator JR Cao

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>)	28	140%
	Other written NOVs	2	4%
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	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) 184%

>> 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 27 months of self-reported effluent violations, one NOV with same/similar violation, two NOVs with dissimilar violations, and two orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 184%

Screening Date 6-Apr-2011

Docket No. 2011-0552-MWD-E

PCW

Respondent City of Orange

Policy Revision 2 (September 2002)

Case ID No. 41453

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613644

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010626001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on March 16, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			100%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes 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 environmental receptors.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 1 30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

One monthly event is recommended for the daily maximum concentration in June 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$28,100

This violation Final Assessed Penalty (adjusted for limits) \$28,100

Economic Benefit Worksheet

Respondent City of Orange
Case ID No. 41453
Req. Ent. Reference No. RN101613644
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation no. 3.

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 6-Apr-2011
Respondent City of Orange
Case ID No. 41453
Reg. Ent. Reference No. RN101613644
Media [Statute] Water Quality
Enf. Coordinator JR Cao

Docket No. 2011-0552-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010626001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on March 16, 2011, and shown in the attached violation table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="50%"/>
Potential	<input type="text"/>	<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 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 environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Three monthly events are recommended for the months of July 2010, October 2010, and December 2010.

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"/>
N/A	<input checked="" type="text" value="x"/>	(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 Orange
Case ID No. 41453
Req. Ent. Reference No. RN101613644
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation no. 3.

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 6-Apr-2011
Respondent City of Orange
Case ID No. 41453
Reg. Ent. Reference No. RN101613644
Media [Statute] Water Quality
Enf. Coordinator JR Cao

Docket No. 2011-0552-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010626001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on March 16, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				x	25%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

A simplified model was used to evaluate total copper to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Enterococci and 5-day biochemical oxygen demand were also considered. As a result of the discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4 180 Number of violation days

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

Violation Base Penalty \$10,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102,507

Violation Final Penalty Total \$28,100

This violation Final Assessed Penalty (adjusted for limits) \$28,100

Economic Benefit Worksheet

Respondent City of Orange
Case ID No. 41453
Req. Ent. Reference No. RN101613644
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)	\$500,000	28-Feb-2010	1-Feb-2013	2.93	\$4,881	\$97,626	\$102,507
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to evaluate the cause of the non-compliance and to implement corrective actions. Date required is the first date of non-compliance. 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

\$500,000

TOTAL

\$102,507

Compliance History

Customer/Respondent/Owner-Operator: CN600643530 City of Orange Classification: AVERAGE Rating: 4.43
Regulated Entity: RN101613644 JACKSON STREET PLANT Classification: AVERAGE Site Rating: 12.48
ID Number(s): WASTEWATER PERMIT WQ0010626001
WASTEWATER EPA ID TX0073423
WASTEWATER LICENSING WQ0010626001
STORMWATER PERMIT TXR05R263

Location: 402 South 10th Street, between Jackson Street and Polk Avenue and approximately 1,800 feet west of Farm-to-Market Road 1006 (Border Street) in Orange County, Texas

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: April 06, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 06, 2006 to April 06, 2011

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

Name: JR Cao Phone: (512) 239-2543

Site Compliance History Components

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

Components (Multimedia) for the Site:

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

Effective Date: 08/31/2007

ADMINORDER 2005-0059-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OpR 1 PERMIT

Description: Failure to adequately operate and maintain the UV disinfection system.

Classification: Moderate

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

Rqmt Prov: FEL&MR 1 PERMIT

Description: Failure to comply the FC single grab limit of 800 col/100 ml with values of 19,090 col/100 ml in the west basin and 13,640 col/100 ml in the east basin as measured by the regional investigator.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OpR 1 PERMIT

Description: Failure to maintain a functional high level alarm at the Allie Payne lift station.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OpR 1 PERMIT

Description: Failure to remove the heavy accumulation of oil and grease from the 16th Street lift station.

Classification: Moderate

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

Rqmt Prov: EL&MR 1 PERMIT

Description: Failure to comply with the fecal coliform bacteria (FC) single grab limit, the FC seven (7) day average, and the total suspended solids (TSS) daily maximum limits.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.6(c)(2)(E)

Description: Failure to provide remote operation indicators for all lamps in the UV system.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.6(c)(2)(H)

Description: Failure to maintain a minimum number of replacement parts for the UV disinfection system.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OpR 1 PERMIT

Description: Failure to maintain the No. 2 pump in service at the Bankroft and Sikes lift station.

Effective Date: 02/08/2009

ADMINORDER 2008-0533-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)

Rqmt Prov: M&RR 7 PERMIT

Description: Failure by the City of Orange to report an unauthorized discharge from the Wastewater Treatment Plant headworks on 01/10/2008.

Classification: Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(4)

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OpR 1 PERMIT

Permit Conditions 2.g PERMIT

Description: Failure to prevent an unauthorized discharge. Specifically, the motor serving the automatic bar screen malfunctioned, resulting in a discharge of wastewater and debris onto the Facility grounds.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OpR 1 PERMIT

Description: Failure by the City of Orange to properly maintain units of treatment.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OpR 1 PERMIT

Description: Failure by the City of Orange to properly maintain units of treatment.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.3(e)(5)

Rqmt Prov: OpR 1 PERMIT

Description: Failed to provide an audiovisual alarm system at each lift station.

Classification: Minor

Citation: 30 TAC Chapter 317 317.3(a)

Description: Failure by the City of Orange to ensure that lift stations are intruder-resistant with a controlled access.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.3(b)(1)

Rqmt Prov: OpR 1 PERMIT

Description: Failure by the City of Orange to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal.

Classification: Minor

Citation: 30 TAC Chapter 317 317.3(b)(6)(B)

Description: Failure by the City of Orange to properly maintain units of conveyance.

Classification: Minor

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

30 TAC Chapter 319, SubChapter A 319.7(a)

Rqmt Prov: M&RR 3 PERMIT

Description: Failure by the City of Orange to maintain complete records of each measurement or sample taken.

Classification: Minor

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

Rqmt Prov: OtR 10 PERMIT

Description: Failure by the City of Orange to submit a report of the date, the average flow, and the duration of each discharge from Outfall 002

Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.350(n)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Other Requirements No.1 PERMIT

Description: Failure by the City of Orange to employ appropriately licensed collection system operators.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OpR 1 PERMIT

Description: Failure by the City of Orange to properly maintain units of treatment.

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	04/19/2006	(502828)	11	06/21/2007	(584590)	21	11/26/2007	(623292)
2	05/23/2006	(502829)	12	07/20/2007	(584591)	22	12/27/2007	(623293)
3	06/26/2006	(502830)	13	10/24/2006	(584592)	23	03/20/2008	(638080)
4	07/24/2006	(525164)	14	11/27/2006	(584593)	24	02/21/2008	(674647)
5	08/21/2006	(525165)	15	12/15/2006	(584594)	25	03/25/2008	(674648)
6	09/21/2006	(525166)	16	01/23/2007	(584595)	26	01/22/2008	(674649)
7	02/22/2007	(584586)	17	10/16/2007	(597989)	27	04/24/2008	(692974)
8	03/23/2007	(584587)	18	08/17/2007	(604299)	28	05/16/2008	(692975)
9	04/23/2007	(584588)	19	09/21/2007	(604300)	29	04/24/2008	(692976)
10	05/18/2007	(584589)	20	10/22/2007	(623291)	30	06/24/2008	(714169)

31	08/19/2008	(714170)	39	03/25/2009	(753391)	47	08/19/2010	(867905)
32	10/03/2008	(730180)	40	06/21/2010	(762663)	48	09/20/2010	(874849)
33	10/22/2008	(730181)	41	04/23/2009	(770897)	49	10/20/2010	(882442)
34	11/21/2008	(730182)	42	03/25/2010	(793153)	50	12/20/2010	(888894)
35	12/29/2008	(730183)	43	05/17/2010	(833604)	51	02/23/2011	(894446)
36	10/22/2008	(730184)	44	06/21/2010	(847108)	52	01/13/2011	(897246)
37	03/20/2009	(739246)	45	07/22/2010	(861574)	53	10/20/2010	(903149)
38	02/20/2009	(753390)	46	10/11/2010	(864766)	54	03/28/2011	(906331)

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

Date: 05/31/2006 (502830) CN600643530
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (525164) CN600643530
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: 07/31/2006 (525165) CN600643530
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006 (525166) CN600643530
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: 10/31/2006 (584593) CN600643530
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: 11/30/2006 (584594) CN600643530
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2006 (584595) CN600643530
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (584586) CN600643530
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (584588) CN600643530
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2007 (604300) CN600643530
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 (623291) CN600643530
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 (714169) CN600643530
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 (714170) CN600643530
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2008 (730184) CN600643530
 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: 02/28/2009 (753391) CN600643530
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2009 (770897) CN600643530
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 CN600643530
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/11/2010 (782914) CN600643530
 Self Report? NO Classification: Minor
 Citation: M&RR 2 PERMIT
 Description: Failure by the City to take fecal coliform samples per the method. C1, Minor 3A
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to maintain the splitter box on the north trickling filter. c4, minor 3D
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to have the plant area completely fenced. C4, minor 3D
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to maintain the primary and final effluent check valves. C4, Minor 3D
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to maintain clarifier sludge depth to less that 25% of the clarifier depth. C4, minor 3D
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to maintain the primary clarifiers. C4. Minor 3D
 Self Report? NO Classification: Minor
 Citation: M&RR 7b i PERMIT
 Description: Failure by the City to report an unauthorized discharge at the WWTP. B3, Moderate 2B
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to maintain the trickling filters. c4, minor 3d
 Self Report? NO Classification: Moderate
 Citation: EL&MR 1 PERMIT
 Description: Failure by the City to comply with effluent limitations. B19, Moderate 2D
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to have functioning alarms at lift stations. C3, Minor 3C
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to have caps for the clean outs for the final clarifiers. C4, minor 3D
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure to have the backflow prevention device at the WWTP tested annually. C1, Minor 3A
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to maintain the floating roof on the sludge tank. C4, Minor 3D

	Self Report?	NO	Classification:	Minor
	Citation:	M&RR 5 PERMIT		
	Description:	Failure by the City to calibrate the effluent flow meters annually.	C1, Minor 3A	
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) OT No. 4 PERMIT		
	Description:	Failure by the City to install and maintain adequate safeguard to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.		
Date:	3/31/2010		CN600643530	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2010	(833604)	CN600643530	
	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	(847108)	CN600643530	
	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	(861574)	CN600643530	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2010	(867905)	CN600643530	
	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	(874849)	CN600643530	
	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	(882442)	CN600643530	
	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:	10/31/2010	(888894)	CN600643530	
	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:	11/30/2010	(876941)	CN600643530	
	Self Report?	NO	Classification:	Moderate
	Citation:	OpR 1 PERMIT		
	Description:	Failure by the City of Orange to ensure that all units of the collection system are properly operated and maintained.		
Date:	11/30/2010	(897246)	CN600643530	
	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		CN600643530	
	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:	01/03/2011	(880522)	CN600643530	
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 335, SubChapter A 335.4		
	Description:	Failure by the City to properly clean up an industrial waste spill. c4, Minor 3D		

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 ORANGE;
RN101613644**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-0552-MWD-E

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

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

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

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

FINDINGS OF FACT

1. Respondent owns and operates a wastewater treatment facility located at 402 South 10th Street, between Jackson Street and Polk Avenue and approximately 1,800 feet west of Farm-to-Market Road 1006 (Border Street) in Orange County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During a record review conducted on March 16, 2011, a TCEQ Central Office investigator documented that Respondent failed to comply with permitted effluent limitations. Specifically:
 - a. In June 2010, Respondent exceeded permitted effluent limitations for the enterococci daily maximum concentration as set forth in the table below;

- b. In July, October, and December 2010, Respondent exceeded permitted effluent limitations for enterococci daily maximum concentration, total copper daily average concentration, and total copper daily maximum as set forth in the table below; and
- c. In February, March, April, May, August, September, and November 2010, Respondent exceeded permitted effluent limitations for total copper daily average concentration, total copper daily maximum concentration, 5-day Biochemical Oxygen Demand ("BOD₅"), and enterococci daily maximum concentration as set forth in the table below:

Months	Total Copper Daily Avg. Conc.	Total Copper Daily Max. Conc.	BOD ₅ Daily Max. Conc.	Enterococci Daily Max. Conc.
	Limit = .0285 mg/L	Limit = .0603 mg/L	Limit = 45 mg/L	Limit = 89 CFU/100 mL
February 2010	0.0292	c	c	c
March 2010	c	c	60	c
April 2010	c	c	c	288
May 2010	c	0.066	c	600
June 2010	c	c	c	92000
July 2010	c	c	c	3100
August 2010	c	c	c	500
September 2010	c	c	70	216
October 2010	c	c	c	2420
November 2010	0.056	0.097	c	411
December 2010	0.0691	0.16	c	3500

BOD₅ = 5-day Biochemical Oxygen Demand
Conc. = Concentration
Max. = Maximum
mg/L = milligrams per liter

Avg. = Average
c = compliant
CFU = colony forming units

3. Respondent received notice of the violations on or about March 30, 2011.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact Nos. 2.a., 2.b., and 2.c., Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010626001, Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of ninety-eight thousand three hundred fifty dollars (\$98,350.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, ninety-eight thousand three hundred fifty dollars (\$98,350.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.
5. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the SEP Agreement and any payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.

2. Respondent shall implement and complete a SEP as set forth in Conclusion of Law No. 4, above. The amount of ninety-eight thousand three hundred fifty dollars (\$98,350.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter until such time as written certification of compliance with Ordering Provision No. 3.d. has been submitted, Respondent shall provide a report to the Commission documenting the progress of the corrective actions that are planned and/or have been completed to achieve and maintain compliance with the permitted effluent limits. The reports shall be submitted to the addresses listed in Ordering Provision No. 3.e. below.;
 - b. Within 180 days after the effective date of this Agreed Order, Respondent shall conduct an engineering evaluation of the Facility and the associated collection system to evaluate the cause of and necessary corrective actions designed to achieve and maintain compliance with the permitted effluent limits. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions, which shall be completed within 545 days after the effective date of this Agreed Order.
 - c. Within 560 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.b..
 - d. Within 665 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.e., below, demonstrating three consecutive months of compliance with the permitted effluent limits of TPDES Permit No. WQ0010626001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports.
 - e. The certifications required by these Ordering Provisions shall include detailed supporting documentation including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am

aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certifications and supporting documentation 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:

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

4. All relief not expressly granted in this Agreed Order is denied.
5. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director.
8. The determination of what constitutes good cause rests solely with the Executive Director.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.

11. 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.
12. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

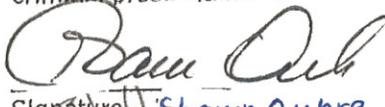
June 18, 2012
Date

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

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

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

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


Signature: Shawn Oubre, City Manager
City of Orange

April 10, 2012
Date

Attachment A
Docket Number: 2011-0552-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Orange
Penalty Amount:	Ninety-Eight Thousand Three Hundred Fifty Dollars (\$98,350)
SEP Offset Amount:	Ninety-Eight Thousand Three Hundred Fifty Dollars (\$98,350)
Type of SEP:	Custom Compliance SEP
Project Name:	<i>Upgrade Jackson Street Wastewater Treatment Plant</i>
Location of SEP:	Orange 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 shall upgrade the infrastructure at the Jackson Street Wastewater Treatment Plant (“WWTP”) by replacing the ultra-violet (“UV”) disinfection equipment, modifying the effluent channel, and replacing the effluent flow meter. The SEP Offset Amount shall be used for materials, supplies, and equipment costs for one or more of the following: modifying the existing channel structures; the purchase of UV equipment; the purchase of the pre-engineered cover for UV structure; and the purchase of the flow meter (the “Project”). Respondent shall hire a contractor to provide upgrades to the UV disinfection system and effluent flow pacing at the WWTP. Any advertisement, including signage, related to the SEP portion of the WWTP improvement project 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. No portion 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 to comply with all other provisions of this SEP.

Estimated Cost Schedule

Construction Costs:	Quantity	Cost	Total
Mobilization	1	\$7,500	\$7,500
Remove Existing UV Equipment	1	\$15,000	\$15,000
Modify Existing Channel Structures	1	\$25,000	\$25,000
Proposed UV Equipment	1	\$700,000	\$700,000
Equipment Installation	1	\$75,000	\$75,000
Pre-Engineered Cover for UV Structure	1	\$50,000	\$50,000
Flow Meter	1	\$42,000	\$42,000
Electrical and Controls	1	\$50,000	\$50,000
Materials Testing	1	\$5,000	\$5,000
Total Construction Costs			\$969,500

Engineering Services:	Quantity	Cost	Total
Preliminary Design & Field Study	1	\$20000	\$20,000
Basic Engineering Design (Plans & Specs)	1	\$55000	\$55,000
Geotechnical Investigation	1	\$7000	\$7,000
Bidding	1	\$5800	\$5,800
Construction Administration	1	\$25000	\$25,000
Project Field Representative (Part-time)	1	\$37500	\$37,500
Total			\$150,300
Total Compliance Costs			\$1,119,800

2. Performance Schedule

Within 30 days after the effective date of the attached Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall complete the SEP in its entirety within 665 days after the effective date of the Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of the attached Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing all actions performed to-date to implement the Project. Within 90 days of the effective date of the 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 665-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 performed to implement the Project
90	Actions completed during previous 60-day period or proof that the SEP Offset Amount has been expended on allowable items.
180	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
270	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
365	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
455	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
545	Actions completed during previous 90-day period or proof that the SEP Offset Amount has been expended on allowable items.
665	Notice of SEP completion

B. Final Report

Within 665 days after the effective date of the Agreed Order, or within 60 days after the SEP Offset Amount has been fully expended, whichever is earlier, Respondent shall submit a Final Report to the TCEQ. Once TCEQ approves the Final Report, the SEP shall be considered complete. The Final Report shall include the following:

1. Itemized list of expenditures and total cost of the Project;

2. Copies of invoices, paid receipts, cleared checks, or other payment records corresponding to the itemized list of expenditures required by Section 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.

All records listed above verifying appropriate expenditures and the completion of the Project must be submitted with the Final Report.

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 78711-31087

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 fully 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.