

Executive Summary – Enforcement Matter – Case No. 42234
City of Lockney
RN101916930
Docket No. 2011-1387-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Lockney, located approximately 0.1 mile south of U.S. Highway 70 and 1.0 mile east of Farm-to-Market Road 378, and southeast of Lockney, Floyd 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: October 5, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,475

Amount Deferred for Expedited Settlement: \$4,095

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: \$16,380

Name of SEP: Texas Association of Resource Conservation & Development Areas, Inc.

- Cleanup of Unauthorized Trash Dumps

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. 42234
City of Lockney
RN101916930
Docket No. 2011-1387-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 22, 2011

Date(s) of NOE(s): July 22, 2011

Violation Information

1. Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows, at least annually unless authorized by the Executive Director for a longer period. Specifically, the in-line McCrometer turbine type meter to measure irrigation flows was not calibrated [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010211001, Monitoring Requirements No. 5].
2. Failed to comply with permitted effluent limitations. Specifically, the single grab result for Biochemical Oxygen Demand for May 2011 was 134.4 milligrams per liter ("mg/L") which exceeded the permitted limit of 100 mg/L [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010211001, Effluent Limitations and Monitoring Requirements Section A].
3. Failed to meet the buffer zone requirements from a private well to the land application area. A wastewater treatment plant unit, land where surface irrigation using wastewater effluent occurs, or soil absorption systems, must be located a minimum horizontal distance of 150 feet from a private water well. Specifically, the wellhead was located less than 20 feet from the land application area [30 TEX. ADMIN. CODE §§ 305.125(1) and 309.13(c)(1), and TCEQ Permit No. WQ0010211001, Special Provisions No. 15].
4. Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, multiple trees and a significant amount of cattails were growing along the edge of the facultative lagoons and storage pond berms [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010211001, Special Provisions No. 3].
5. Failed to conduct flow monitoring of irrigation at a minimum of five times per week and maintain records on a monthly basis. Specifically, the irrigation flow data is recorded and tabulated on a yearly basis [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4, and TCEQ Permit No. WQ0010211001, Effluent Limitations and Monitoring Requirements Section B and Monitoring Requirements No. 1].
6. Failed to implement the May 12, 2008, Groundwater Quality Assessment Plan, in accordance with all schedules. Specifically, the Respondent failed to sample each monitoring well once every six months [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010211001, Special Provisions No. 16].

Executive Summary – Enforcement Matter – Case No. 42234
City of Lockney
RN101916930
Docket No. 2011-1387-MWD-E

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

- a. By June 25, 2011, ceased irrigating and relocated the irrigation equipment to meet the buffer zone requirements;
- b. By June 30, 2011, came into compliance with the permitted effluent limitations of TCEQ Permit No. WQ0010211001;
- c. By July 1, 2011, began conducting flow monitoring at the intervals specified in the permit;
- d. By August 4, 2011, conducted the groundwater quality testing for the monitoring wells;
- e. By August 11, 2011, began taking steps to address the removal of the trees and cattails around the perimeter of the lagoons and storage pond areas; and
- f. By November 7, 2011, calibrated and verified all automatic flow measuring or recording devices and all totalizing meters.

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A).
2. The Order will also require Respondent to:
 - a. Within 180 days, remove the trees and cattails around the perimeter of the lagoons and storage pond areas; and
 - b. Within 205 days, submit written certification demonstrating compliance.

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

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Docket No. 2011-1387-MWD-E

TCEQ Enforcement Coordinator: JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223

Respondent: The Honorable Rodger Stapp, Mayor, City of Lockney, P. O. Box 387, Lockney, Texas 79241

Respondent's Attorney: Lanny Voss, Owen, Voss, Owen, & Melton, P.C., 700 West Seventh Street, P.O. Box 328, Plainview, Texas 79073-0328

Attachment A
Docket Number: 2011-1387-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: City of Lockney

Penalty Amount: Sixteen Thousand Three Hundred Eighty Dollars (\$16,380)

SEP Offset Amount: Sixteen Thousand Three Hundred Eighty Dollars (\$16,380)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. (“RC&D”)

Project Name: *Cleanup of Unauthorized Trash Dumps*

Location of SEP: Floyd County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion 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 Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”) to be used for the Cleanup of Unauthorized Trash Dumps program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and county government officials and private entities to clean up sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be identified, where there is no preexisting obligation to clean up the site by the owner or the government, and where reasonable efforts have already been taken to prevent the dumping. SEP offset amount may be used for the direct cost of collection and disposal or recycling of debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

The projects will be administered in accordance with federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will help rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects. This SEP may also provide a discernible environmental benefit by providing for the proper disposal of tires that may be dumped in trash dumps and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

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 shall contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
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 Division 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:

City of Lockney
Attachment A

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP offset amount.

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

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

5. Publicity

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES **Assigned** 25-Jul-2011
PCW 18-Jan-2012 **Screening** 3-Aug-2011 **EPA Due**

RESPONDENT/FACILITY INFORMATION

Respondent City of Lockney
Reg. Ent. Ref. No. RN101916930
Facility/Site Region 2-Lubbock **Major/Minor Source** Minor

CASE INFORMATION

Enf./Case ID No. 42234 **No. of Violations** 6
Docket No. 2011-1387-MWD-E **Order Type** 1660
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 Maximum

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **10.0%** Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability **No** **0.0%** Enhancement **Subtotal 4**

Notes

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

Economic Benefit **0.0%** Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **20.0%** Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 3-Aug-2011

Docket No. 2011-1387-MWD-E

PCW

Respondent City of Lockney

Policy Revision 2 (September 2002)

Case ID No. 42234

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916930

Media [Statute] Water Quality

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>)	2	10%
	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations.

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

Screening Date 3-Aug-2011
Respondent City of Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media [Statute] Water Quality
Enf. Coordinator JR Cao
Violation Number 1

Docket No. 2011-1387-MWD-E

PCW

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

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010211001, Monitoring Requirements No. 5

Violation Description Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows, at least annually unless authorized by the Executive Director for a longer period. Specifically, the in-line McCrometer turbine type meter to measure irrigation flows was not calibrated, as documented during an investigation conducted on June 22, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5%
Potential				x	

>>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events: 1 42 Number of violation days

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

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Estimated EB Amount \$164

Statutory Limit Test

Violation Final Penalty Total \$550

This violation Final Assessed Penalty (adjusted for limits) \$550

Economic Benefit Worksheet

Respondent City of Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$150	22-Jun-2010	22-Jun-2011	1.92	\$14	\$150	\$164
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to calibrate the McCrometer meter. Date required is one year prior to the investigation date. Final date is the investigation date.

Approx. Cost of Compliance \$150

TOTAL \$164

Screening Date 3-Aug-2011
Respondent City of Lockney
Case ID No. 42234

Docket No. 2011-1387-MWD-E

PCW

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

Reg. Ent. Reference No. RN101916930
Media [Statute] Water Quality
Enf. Coordinator JR Cao

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010211001, Effluent Limitations and Monitoring Requirements Section A

Violation Description

Failed to comply with permitted effluent limitations, as documented during an investigation conducted on June 22, 2011. Specifically, the single grab result for Biochemical Oxygen Demand for May 2011 was 134.4 milligrams per liter ("mg/L"), which exceeded the permitted limit of 100 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

As a result of this discharge, human health or the environment has been exposed to an insignificant amount of pollutant which does not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 31

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

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$250

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent came into compliance on June 30, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$12

Statutory Limit Test

Violation Final Penalty Total \$850

This violation Final Assessed Penalty (adjusted for limits) \$850

Economic Benefit Worksheet

Respondent City of Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media Water Quality
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$3,000	31-May-2011	30-Jun-2011	0.08	\$12	n/a	\$12

Notes for DELAYED costs Estimated cost to evaluate and implement corrective actions for the effluent violation. Date required is the date of the non-compliance. Final date is the date of compliance.

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$3,000 **TOTAL** \$12

Screening Date 3-Aug-2011
Respondent City of Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media [Statute] Water Quality
Enf. Coordinator JR Cao

Docket No. 2011-1387-MWD-E

PCW

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

Violation Number
Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 309.13(c)(1), and TCEQ Permit No. WQ0010211001, Special Provisions No. 15
Violation Description Failed to meet the buffer zone requirements from a private well to the land application area. A wastewater treatment plant unit, land where surface irrigation using wastewater effluent occurs, or soil absorption systems, must be located a minimum horizontal distance of 150 feet from a private water well. Specifically, the wellhead was located less than 20 feet from the land application area, as documented during an investigation conducted on June 22, 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes Human health or the environment will or could be exposed to pollutants which would 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

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

Violation Base Penalty

One monthly event is recommended from the investigation date (June 22, 2011) to the compliance date (June 25, 2011).

Good Faith Efforts to Comply

Reduction

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

Notes The Respondent came into compliance on June 25, 2011.

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 Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media Water Quality
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	22-Jun-2011	25-Jun-2011	0.01	\$0	\$3	\$3
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 relocate irrigation equipment, in order to comply with the requirements of 30 Tex. Admin. Code § 309.13. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$3

Screening Date 3-Aug-2011
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Media [Statute] Water Quality
Enf. Coordinator JR Cao

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PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010211001, Special Provisions No. 3

Violation Description

Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, multiple trees and a significant amount of cattails were growing along the edge of the facultative lagoons and storage pond berms, as documented during an investigation conducted on June 22, 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

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

Adjustment

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 type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the investigation date (June 22, 2011) to the screening date (August 3, 2011).

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

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Screening Date 3-Aug-2011
Respondent City of Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media [Statute] Water Quality
Enf. Coordinator JR Cao

Docket No. 2011-1387-MWD-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin Code §§ 305.125(1) and 319.4, and TCEQ Permit No. WQ0010211001, Effluent Limitations and Monitoring Requirements Section B and Monitoring Requirements No. 1

Violation Description Failed to conduct flow monitoring of irrigation at a minimum of five times per week and maintain records on a monthly basis, as documented during an investigation conducted on June 22, 2011. Specifically, the irrigation flow data is recorded and tabulated on a yearly basis.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<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 will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

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 type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the date of the investigation (June 22, 2011) to the date flow monitoring began (July 1, 2011).

Good Faith Efforts to Comply

Reduction

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

Notes: The Respondent came into compliance on July 1, 2011.

Violation Subtotal

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media Water Quality
Violation No. 5

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$150	22-Jun-2011	1-Jul-2011	0.00	\$0	\$150	\$150

Notes for AVOIDED costs

Estimated avoided cost to conduct flow monitoring at the intervals specified in the permit. Date required is the investigation date. Final date is the date the Respondent began monitoring flow.

Approx. Cost of Compliance \$150

TOTAL \$150

Screening Date 3-Aug-2011
Respondent City of Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media [Statute] Water Quality
Enf. Coordinator JR Cao

Docket No. 2011-1387-MWD-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010211001, Special Provisions No. 16

Violation Description

Failed to implement the May 12, 2008, Groundwater Quality Assessment Plan in accordance with all schedules. Specifically, the Respondent failed to sample each monitoring well once every six months, as documented during an investigation conducted on June 22, 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<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 will or could be exposed to pollutants which would 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 type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text" value="x"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Six semiannual events are recommended (two semiannual events multiplied by the three wells).

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" value="x"/>
N/A	<input type="text"/>	<input type="text" value="(mark with x)"/>

Notes The Respondent came into compliance on August 4, 2011.

Violation Subtotal

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Lockney
Case ID No. 42234
Reg. Ent. Reference No. RN101916930
Media Water Quality
Violation No. 6

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$700	4-Sep-2010	4-Aug-2011	1.83	\$64	\$700	\$764

Notes for AVOIDED costs

Estimated avoided cost to sample the wells according to the schedule in the Groundwater Quality Assessment Plan. Date required is six months from the date of the last sampling event (March 4, 2010). Final date is the date of compliance.

Approx. Cost of Compliance \$700

TOTAL \$764

Compliance History

Customer/Respondent/Owner-Operator: CN600674907 City Of Lockney Classification: AVERAGE Rating: 2.65
Regulated Entity: RN101916930 CITY OF LOCKNEY Classification: AVERAGE Site Rating: 1.22
ID Number(s): WASTEWATER PERMIT WQ0010211001
WASTEWATER LICENSING LICENSE WQ0010211001
Location: Approximately 0.1 mile south of U.S. Highway 70 and 1.0 mile east of Farm-to-Market Road 378,
and southeast of Lockney in Floyd County, Texas
TCEQ Region: REGION 02 - LUBBOCK
Date Compliance History Prepared: August 02, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 02, 2006 to August 02, 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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 07/18/2007 (568049)
- 2 01/18/2008 (614227)
- 3 02/29/2008 (637317)
- 4 04/15/2008 (646331)
- 5 02/23/2009 (736269)
- 6 02/16/2010 (791865)
- 7 05/03/2010 (800558)
- 8 07/08/2010 (829832)

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

Date: 01/22/2008 (614227) CN600674907
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010211001 PERMIT
Description: The influent flow measuring device had not been calibrated since its installation three (3) years ago.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010211001 PERMIT
Description: A violation was noted for the pH being above 9.0 s.u. from April through November of 2007. The highest value recorded was 9.98 s.u. in September of 2007.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010211001 PERMIT
Description: There were no groundwater monitoring records available for review during this investigation, and no evidence that a Groundwater Quality Assessment Plan had been submitted to the TCEQ.
Date: 02/17/2010 (791865) CN600674907
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations PERMIT
Description: Failure to maintain Biochemical Oxygen Demand (BOD) levels below the permitted allowable of 100 milligrams per liter (mg / l).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Special Provisions PERMIT
Description: Failure to conduct groundwater monitoring in 2009 per the "Groundwater Quality Assessment Plan" and Water Quality permit number WQ0010211001.

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 LOCKNEY
RN101916930**

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

**AGREED ORDER
DOCKET NO. 2011-1387-MWD-E**

I. JURISDICTION AND STIPULATIONS

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 Lockney ("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 represented by Mr. Lanny Voss of the law firm of Owen, Voss, Owen, & Melton, P.C., appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 0.1 mile south of U.S. Highway 70 and 1.0 mile east of Farm-to-Market Road 378, and southeast of Lockney, in Floyd 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. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 27, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty Thousand Four Hundred Seventy-Five Dollars (\$20,475) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Thousand Ninety-Five Dollars (\$4,095) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Sixteen Thousand Three Hundred Eighty Dollars (\$16,380) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By June 25, 2011, ceased irrigating and relocated the irrigation equipment to meet the buffer zone requirements;
 - b. By June 30, 2011, came into compliance with the permitted effluent limitations of TCEQ Permit No. WQ0010211001;
 - c. By July 1, 2011, began conducting flow monitoring at the intervals specified in the permit;
 - d. By August 4, 2011, conducted the groundwater quality testing for the monitoring wells;
 - e. By August 11, 2011, began taking steps to address the removal of the trees and cattails around the perimeter of the lagoons and storage pond areas; and
 - f. By November 7, 2011, calibrated and verified all automatic flow measuring or recording devices and all totalizing meters.
10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows, at least annually unless authorized by the Executive Director for a longer period, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010211001, Monitoring Requirements No. 5, as documented during an investigation conducted on June 22, 2011. Specifically, the in-line McCrometer turbine type meter to measure irrigation flows was not calibrated.
2. 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 TCEQ Permit No. WQ0010211001, Effluent Limitations and Monitoring Requirements Section A, as documented during an investigation conducted on June 22, 2011. Specifically, the single grab result for Biochemical Oxygen Demand for May 2011 was 134.4 milligrams per liter ("mg/L") which exceeded the permitted limit of 100 mg/L.
3. Failed to meet the buffer zone requirements from a private well to the land application area, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 309.13(c)(1), and TCEQ Permit No. WQ0010211001, Special Provisions No. 15, as documented during an investigation conducted on June 22, 2011. A wastewater treatment plant unit, land where surface irrigation using wastewater effluent occurs, or soil absorption systems, must be located a minimum horizontal distance of 150 feet from a private water well. Specifically, the wellhead was located less than 20 feet from the land application area.
4. Failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010211001, Special Provisions No. 3, as documented during an investigation conducted on June 22, 2011. Specifically, multiple trees and a significant amount of cattails were growing along the edge of the facultative lagoons and storage pond berms.
5. Failed to conduct flow monitoring of irrigation at a minimum of five times per week and maintain records on a monthly basis, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4, and TCEQ Permit No. WQ0010211001, Effluent Limitations and Monitoring Requirements Section B and Monitoring Requirements No. 1, as documented during an investigation conducted on June 22, 2011. Specifically, the irrigation flow data is recorded and tabulated on a yearly basis.
6. Failed to implement the May 12, 2008, Groundwater Quality Assessment Plan, in accordance with all schedules, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010211001, Special Provisions No. 16, as documented during an investigation conducted on June 22, 2011. Specifically, the Respondent failed to sample each monitoring well once every six months.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Lockney, Docket No. 2011-1387-MWD-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Sixteen Thousand Three Hundred Eighty Dollars (\$16,380) of the assessed administrative penalty shall be offset with the condition that the Respondent implements 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 undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order, remove the trees and cattails around the perimeter of the lagoons and storage pond areas; and
 - b. Within 205 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

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. 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.
8. 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.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the 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

12/21/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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, 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

8-8-2012
Date

Rodger Stapp
Name (Printed or typed)
Authorized Representative of
City of Lockney

Mayor
Title

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

Attachment A
Docket Number: 2011-1387-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: City of Lockney

Penalty Amount: Sixteen Thousand Three Hundred Eighty Dollars (\$16,380)

SEP Offset Amount: Sixteen Thousand Three Hundred Eighty Dollars (\$16,380)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D")

Project Name: *Cleanup of Unauthorized Trash Dumps*

Location of SEP: Floyd County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion 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 Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") to be used for the Cleanup of Unauthorized Trash Dumps program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and county government officials and private entities to clean up sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be identified, where there is no preexisting obligation to clean up the site by the owner or the government, and where reasonable efforts have already been taken to prevent the dumping. SEP offset amount may be used for the direct cost of collection and disposal or recycling of debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

The projects will be administered in accordance with federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will help rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects. This SEP may also provide a discernible environmental benefit by providing for the proper disposal of tires that may be dumped in trash dumps and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

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 shall contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
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 Division 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:

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP offset amount.

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

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

5. Publicity

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