

Executive Summary – Enforcement Matter – Case No. 43462
City of Gunter
RN101917904
Docket No. 2012-0276-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 Gunter WWTF, adjacent to the St. Louis-San Francisco and Texas Railway, approximately 2,300 feet west of State Highway 289 and approximately 1,400 feet north of Farm-to-Market Road 121, Gunter, Grayson County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 9, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,667

Amount Deferred for Expedited Settlement: \$1,533

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: \$6,134

Name of SEP: Compliance SEP - Sludge Removal, Re-Stabilization of Pond Embankments, and Install Deeper Baffles

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 43462

City of Gunter

RN101917904

Docket No. 2012-0276-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 22, 2011

Date(s) of NOE(s): January 12, 2012

Violation Information

Failed to comply with permitted effluent limitations for 5-day carbonaceous biochemical oxygen demand, ammonia nitrogen, dissolved oxygen, total suspended solids, and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010569001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to, within 365 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010569001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephen Thompson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2558; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

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

Executive Summary – Enforcement Matter – Case No. 43462
City of Gunter
RN101917904
Docket No. 2012-0276-MWD-E

Respondent: The Honorable Mark Merrill, Mayor, City of Gunter, P.O. Box 349,
Gunter, Texas 75058

Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-0276-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---------------------------|---|
| Respondent: | City of Gunter |
| Penalty Amount: | Six Thousand One Hundred Thirty-Four Dollars (\$6,134) |
| SEP Offset Amount: | Six Thousand One Hundred Thirty-Four Dollars (\$6,134) |
| Type of SEP: | Compliance SEP |
| Project Name: | <i>Sludge Removal, Re-Stabilization of Pond Embankments, and Install Deeper Baffles</i> |
| Location of SEP: | Grayson County |

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

1. Project Description

A. Project

Respondent is a Local Government that qualifies under TEXAS WATER CODE § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent’s wastewater treatment facility. Respondent shall hire a certified contractor to remove the sludge from Pond 2 at the Wastewater Treatment Plant and haul it to the Texoma Area Solid Waste Authority landfill, Permit No. MSW2290; re-stabilize the four pond embankments with 3-inch washed stone; and install deeper baffles on Pond 4 outlets. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment rental, for one or more of the following: remove sludge, re-stabilize pond embankments, and install deeper baffles (the “Project”). Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

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

Estimated Cost Schedule

| Item | Quantity | Cost | Total |
|--|-----------------|-------------|-----------------|
| Sludge Removal from Pond 2 | 1 | \$20,000 | \$20,000 |
| Stabilize Embankments | 6 | \$4,000 | \$24,000 |
| Installation of Outlet Baffles in Pond 4 | 2 | \$300 | \$600 |
| Total | | | \$44,600 |

2. Performance Schedule

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

3. Records and Reporting

A. Progress Report

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

| Days from Effective Order Date | Information Required |
|---------------------------------------|--|
| 30 | Notice of Commencement describing actions taken to begin project |

| Days from Effective Order Date | Information Required |
|---------------------------------------|---|
| 90 | Actions completed during previous 60-day period |
| 180 | Actions completed during previous 90-day period |
| 270 | Actions completed during previous 90-day period |
| 365 | Notice of SEP completion |

B. Final Report

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

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

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to “Texas Commission on Environmental Quality,” and shall mail it to:

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

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 17-Jan-2012 | Screening | 31-Jan-2012 | EPA Due | |
| | PCW | 8-Feb-2012 | | | | |

| | |
|--|---------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Gunter |
| Reg. Ent. Ref. No. | RN101917904 |
| Facility/Site Region | 4-Dallas/Fort Worth |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 43462 | No. of Violations | 1 |
| Docket No. | 2012-0276-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Stephen Thompson |
| | | EC's Team | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **94.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,175**

Notes: Enhancement for 17 months of self-reported effluent violations, one NOV with same/similar violations and two NOVs with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$0
 Approx. Cost of Compliance \$0
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,425**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-1.6%** **Adjustment** **-\$38**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction to prevent double-enhancement for violations that were self-reported.

Final Penalty Amount **\$2,387**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$2,387**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$477**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,910**

Screening Date 31-Jan-2012

Docket No. 2012-0276-MWD-E

PCW

Respondent City of Gunter

Policy Revision 3 (September 2011)

Case ID No. 43462

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101917904

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 18 | 90% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 94%

>> 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 17 months of self-reported effluent violations, one NOV with same/similar violations and two NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 94%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 94%

Screening Date 31-Jan-2012

Docket No. 2012-0276-MWD-E

PCW

Respondent City of Gunter

Policy Revision 3 (September 2011)

Case ID No. 43462

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101917904

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

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. WQ0010569001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review on December 22, 2011, and as shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | X | 5.0% |
| | Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0.0% |

Matrix Notes Total suspended solids were evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 30 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the month of September 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,387

This violation Final Assessed Penalty (adjusted for limits) \$2,387

Economic Benefit Worksheet

Respondent City of Gunter
Case ID No. 43462
Reg. Ent. Reference No. RN101917904
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

The delayed cost associated with this violation is captured under violation no. 1 of PCW revision 2.

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 17-Jan-2012 | Screening | 31-Jan-2012 | EPA Due | |
| | PCW | 8-Feb-2012 | | | | |

| | | | |
|--|---------------------|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | City of Gunter | | |
| Reg. Ent. Ref. No. | RN101917904 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 43462 | No. of Violations | 1 |
| Docket No. | 2012-0276-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Stephen Thompson |
| | | EC's Team | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **94.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,820**

Notes: Enhancement for 17 months of self-reported effluent violations, one NOV with same/similar violations and two NOVs with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$1,112**
 Approx. Cost of Compliance **\$10,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,820**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-9.3%** **Adjustment** **-\$540**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction to prevent double-enhancement for violations that were self-reported and to ensure that self-reported violations do not overly impact the penalty.

Final Penalty Amount **\$5,280**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,280**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,056**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$4,224**

Screening Date 31-Jan-2012

Docket No. 2012-0276-MWD-E

PCW

Respondent City of Gunter

Policy Revision 2 (September 2002)

Case ID No. 43462

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917904

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 18 | 90% |
| | Other written NOVs | 2 | 4% |
| 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) 94%

>> 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 17 months of self-reported effluent violations, one NOV with same/similar violations and two NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 94%

Screening Date 31-Jan-2012

Docket No. 2012-0276-MWD-E

PCW

Respondent City of Gunter

Policy Revision 2 (September 2002)

Case ID No. 43462

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917904

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

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. WQ0010569001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review on December 22, 2011, and as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

A simplified model was used to evaluate five-day carbonaceous biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. In addition, total suspended solids, dissolved oxygen and Escherichia coli were considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

211 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$3,000

Three quarterly events are recommended for the quarters containing the months of February through August 2011.

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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,112

Violation Final Penalty Total \$5,280

This violation Final Assessed Penalty (adjusted for limits) \$5,280

Economic Benefit Worksheet

Respondent City of Gunter
Case ID No. 43462
Reg. Ent. Reference No. RN101917904
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 | \$10,000 | 28-Feb-2011 | 30-Sep-2012 | 1.59 | \$53 | \$1,059 | \$1,112 |
| 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 determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,112

City of Gunter
 TPDES Permit No. WQ0010569001
 Docket No. 2012-0276-MWD-E

| | Monitoring Period | | | | | | | |
|--|-------------------|---------------|---------------|-------------|--------------|--------------|----------------|-------------------|
| | February 2011 | March 2011 | April 2011 | May 2011 | June 2011 | July 2011 | August 2011 | September 2011 |
| CBOD5 Daily Avg. Conc. | c | c | c | 40 | c | c | c | c |
| Limit = 30 mg/L | | | | | | | | |
| CBOD5 Single Grab Conc. | c | c | c | 114 | c | c | c | c |
| Limit = 100 mg/L | | | | | | | | |
| NH₃-N Daily Avg. Conc. | 11.42 | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Limit = 10 mg/L (November – February) | | | | | | | | |
| NH₃-N Daily Avg. Conc. | N/A | 5.26 | c | c | c | N/A | N/A | N/A |
| Limit = 5 mg/L (March – June) | | | | | | | | |
| E. coli Daily Avg. Conc. | c | c | c | 258 | c | c | c | c |
| Limit = 126 CFU/100 mL | | | | | | | | |
| E. coli Single Grab Conc. | c | c | c | 430 | c | c | c | c |
| Limit = 394 CFU/100 mL | | | | | | | | |
| DO Monthly Min. Conc. | c | c | c | c | 2.34 | 1.12 | 1.5 | c |
| Limit = 4 mg/L | | | | | | | | |
| TSS Daily Avg. Conc. | c | c | 118.75 | 106.75 | 104.6 | c | c | 136.5 |
| Limit = 90 mg/L | | | | | | | | |

CBOD5 = five-day carbonaceous biochemical oxygen demand
 Avg. = average
 c = compliant
 NH₃-N = ammonia nitrogen
 CFU = colony forming units per milliliters
 DO = dissolved oxygen
 TSS = total suspended solids

Conc. = concentration
 mg/L = milligrams per liter
 N/A = not applicable
E. coli = *Escherichia coli*
 mL = milliliters
 Min. = minimum

Compliance History Report

Customer/Respondent/Owner-Operator: CN600641690 City of Gunter Classification: AVERAGE Rating: 1.83
Regulated Entity: RN101917904 CITY OF GUNTER Classification: AVERAGE Site Rating: 0.65
ID Number(s): WASTEWATER PERMIT WQ0010569001
WASTEWATER EPA ID TX0027227
WASTEWATER LICENSING LICENSE WQ0010569001
Location: LOCATED ADJACENT TO THE ST LOUIS-SAN FRANCISCO AND TEXAS RAILWAY, APPROX. 2,300 FT W OF SH 289 AND APPROX. 1,400 FT N OF FM 121, GUNTER, GRAYSON COUNTY, TX
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: January 31, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 31, 2007 to January 31, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Stephen Thompson Phone: (512) 239-2558

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
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 08/22/2007 (572666)
 - 2 02/21/2007 (579080)
 - 3 03/21/2007 (579081)
 - 4 04/23/2007 (579082)
 - 5 06/22/2007 (579083)
 - 6 07/24/2007 (602702)
 - 7 09/12/2007 (602703)
 - 8 09/27/2007 (602704)
 - 9 10/22/2007 (620954)
 - 10 12/03/2007 (620955)
 - 11 12/18/2007 (620956)
 - 12 02/21/2008 (673122)
 - 13 01/24/2008 (673123)
 - 14 03/24/2008 (691272)
 - 15 04/25/2008 (691273)

| | | |
|----|------------|----------|
| 16 | 05/27/2008 | (691274) |
| 17 | 06/26/2008 | (712130) |
| 18 | 09/02/2008 | (712131) |
| 19 | 09/29/2008 | (712132) |
| 20 | 10/20/2008 | (728495) |
| 21 | 11/24/2008 | (728496) |
| 22 | 12/29/2008 | (728497) |
| 23 | 04/29/2009 | (738686) |
| 24 | 03/22/2009 | (739000) |
| 25 | 05/26/2009 | (746839) |
| 26 | 01/26/2009 | (751585) |
| 27 | 03/03/2009 | (769338) |
| 28 | 03/30/2009 | (769339) |
| 29 | 04/27/2009 | (769340) |
| 30 | 05/21/2007 | (769341) |
| 31 | 05/22/2009 | (769342) |
| 32 | 07/24/2008 | (769343) |
| 33 | 10/15/2009 | (779318) |
| 34 | 03/30/2010 | (796955) |
| 35 | 05/04/2010 | (800506) |
| 36 | 02/22/2010 | (807743) |
| 37 | 07/02/2009 | (807744) |
| 38 | 07/17/2009 | (807745) |
| 39 | 08/24/2009 | (807746) |
| 40 | 09/24/2009 | (807747) |
| 41 | 10/20/2009 | (807748) |
| 42 | 11/23/2009 | (807749) |
| 43 | 12/21/2009 | (807750) |
| 44 | 01/21/2010 | (807751) |
| 45 | 03/25/2010 | (832015) |
| 46 | 04/26/2010 | (832016) |
| 47 | 05/21/2010 | (832017) |
| 48 | 06/23/2010 | (846618) |
| 49 | 09/23/2010 | (867261) |
| 50 | 09/07/2010 | (867262) |
| 51 | 09/23/2010 | (874304) |
| 52 | 10/25/2010 | (881897) |
| 53 | 11/30/2010 | (888385) |
| 54 | 01/04/2011 | (902668) |
| 55 | 01/24/2011 | (902669) |
| 56 | 02/24/2011 | (926066) |
| 57 | 03/22/2011 | (926067) |
| 58 | 04/20/2011 | (926068) |
| 59 | 05/27/2011 | (938428) |
| 60 | 07/15/2011 | (941140) |
| 61 | 06/23/2011 | (945795) |
| 62 | 07/25/2011 | (953041) |
| 63 | 08/22/2011 | (959695) |
| 64 | 10/03/2011 | (971778) |
| 65 | 10/21/2011 | (971779) |
| 66 | 01/12/2012 | (976134) |

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

Date: 06/30/2007 (602702) CN600641690
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2007 (620956) CN600641690
 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: 02/29/2008 (691272) CN600641690
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2008 (691273) CN600641690
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2008 (691274) CN600641690
 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 (712130) CN600641690
 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: 03/05/2009 (738686) CN600641690
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to maintain complete records for analytical equipment used.

Date: 03/23/2009 (739000) CN600641690
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure by the City of Gunter to maintain adequate safeguards to prevent discharge of untreated or inadequately treated wastes during electrical power failure.

Date: 03/31/2009 (769340) CN600641690
 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: 05/01/2009 (738686) CN600641690

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to maintain area around the ponds.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with the self-monitored effluent limitations.

Date: 10/31/2009 (807749) CN600641690

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

Date: 02/28/2011 (926067) CN600641690

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: 03/31/2011 (926068) CN600641690

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

Date: 04/30/2011 (938428) CN600641690

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

Date: 05/31/2011 (945795) CN600641690

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

Date: 06/30/2011 (953041) CN600641690

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

Date: 07/31/2011 (959695) CN600641690

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: 08/31/2011 (971778) CN600641690

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

Date: 09/30/2011 (971779) CN600641690

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: 10/31/2011 (977941)

CN600641690

Self Report? YES

Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF GUNTER
RN101917904**

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

**AGREED ORDER
DOCKET NO. 2012-0276-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Gunter ("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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility adjacent to the St. Louis-San Francisco and Texas Railway, approximately 2,300 feet west of State Highway 289 and approximately 1,400 feet north of Farm-to-Market Road 121 in Gunter, Grayson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director 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 January 17, 2012.
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 Seven Thousand Six Hundred Sixty-Seven Dollars (\$7,667) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Five Hundred Thirty-Three Dollars (\$1,533) 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. Six Thousand One Hundred Thirty-Four Dollars (\$6,134) 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 agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
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 the 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. 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 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. WQ0010569001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on December 22, 2011, and as shown in the table below:

| EFFLUENT VIOLATION TABLE | | | | | | | | |
|--|-------------------|------------|------------|----------|-----------|-----------|-------------|----------------|
| | Monitoring Period | | | | | | | |
| | February 2011 | March 2011 | April 2011 | May 2011 | June 2011 | July 2011 | August 2011 | September 2011 |
| CBOD5 Daily Avg. Conc. | c | c | c | 40 | c | c | c | c |
| Limit = 30 mg/L | | | | | | | | |
| CBOD5 Single Grab Conc. | c | c | c | 114 | c | c | c | c |
| Limit = 100 mg/L | | | | | | | | |
| NH₃-N Daily Avg. Conc. | 11.42 | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Limit = 10 mg/L (November – February) | | | | | | | | |
| NH₃-N Daily Avg. Conc. | N/A | 5.26 | c | c | c | N/A | N/A | N/A |
| Limit = 5 mg/L (March – June) | | | | | | | | |
| E. coli Daily Avg. Conc. | c | c | c | 258 | c | c | c | c |
| Limit = 126 CFU/100 mL | | | | | | | | |
| E. coli Single Grab Conc. | c | c | c | 430 | c | c | c | c |
| Limit = 394 CFU/100 mL | | | | | | | | |
| DO Monthly Min. Conc. | c | c | c | c | 2.34 | 1.12 | 1.5 | c |
| Limit = 4 mg/L | | | | | | | | |
| TSS Daily Avg. Conc. | c | c | 118.75 | 106.75 | 104.6 | c | c | 136.5 |
| Limit = 90 mg/L | | | | | | | | |

CBOD5 = five-day carbonaceous biochemical oxygen demand
Avg. = average
c = compliant
NH₃-N = ammonia nitrogen
CFU = colony forming units per milliliters
DO = dissolved oxygen
TSS = total suspended solids

Conc. = concentration
mg/L = milligrams per liter
N/A = not applicable
E. coli = *Escherichia coli*
mL = milliliters
Min. = minimum

III. DENIALS

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

IV. ORDERING PROVISIONS

1. 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, Six Thousand One Hundred Thirty-Four Dollars (\$6,134) 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.
2. It is further ordered that the Respondent shall, within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010569001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. 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.
4. 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.

5. 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.
6. 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.
7. 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.
8. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Jovan Jr.
For the Executive Director

1/18/13
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]
Signature

9-7-2012
Date

Mark C. Merrill
Name (Printed or typed)
Authorized Representative of
City of Gunter

Mayor - City of Gunter
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: 2012-0276-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---------------------------|---|
| Respondent: | City of Gunter |
| Penalty Amount: | Six Thousand One Hundred Thirty-Four Dollars (\$6,134) |
| SEP Offset Amount: | Six Thousand One Hundred Thirty-Four Dollars (\$6,134) |
| Type of SEP: | Compliance SEP |
| Project Name: | <i>Sludge Removal, Re-Stabilization of Pond Embankments, and Install Deeper Baffles</i> |
| Location of SEP: | Grayson County |

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

1. Project Description

A. Project

Respondent is a Local Government that qualifies under TEXAS WATER CODE § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent’s wastewater treatment facility. Respondent shall hire a certified contractor to remove the sludge from Pond 2 at the Wastewater Treatment Plant and haul it to the Texoma Area Solid Waste Authority landfill, Permit No. MSW2290; re-stabilize the four pond embankments with 3-inch washed stone; and install deeper baffles on Pond 4 outlets. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment rental, for one or more of the following: remove sludge, re-stabilize pond embankments, and install deeper baffles (the “Project”). Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

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

Estimated Cost Schedule

| Item | Quantity | Cost | Total |
|--|-----------------|-------------|-----------------|
| Sludge Removal from Pond 2 | 1 | \$20,000 | \$20,000 |
| Stabilize Embankments | 6 | \$4,000 | \$24,000 |
| Installation of Outlet Baffles in Pond 4 | 2 | \$300 | \$600 |
| Total | | | \$44,600 |

2. Performance Schedule

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

3. Records and Reporting

A. Progress Report

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

| Days from Effective Order Date | Information Required |
|---------------------------------------|--|
| 30 | Notice of Commencement describing actions taken to begin project |

| Days from Effective Order Date | Information Required |
|---------------------------------------|---|
| 90 | Actions completed during previous 60-day period |
| 180 | Actions completed during previous 90-day period |
| 270 | Actions completed during previous 90-day period |
| 365 | Notice of SEP completion |

B. Final Report

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

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

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to “Texas Commission on Environmental Quality,” and shall mail it to:

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

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.