

Executive Summary – Enforcement Matter – Case No. 48816
Texas Department of Criminal Justice
RN102315553
Docket No. 2014-0878-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

TDCJ Beto Unit, located at 1391 Farm-to-Market ("FM") Road 3328, Tennessee Colony, approximately six miles northwest of the intersection of U.S. Highway 84 and 79 and FM 645, and approximately two miles west of the intersection of FM Roads 645 and 3328, Anderson County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 3, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,125

Amount Deferred for Expedited Settlement: \$2,025

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: \$8,100

Name of SEP: Texoma Council of Governments (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 48816
Texas Department of Criminal Justice
RN102315553
Docket No. 2014-0878-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: May 20, 2014
Date(s) of NOE(s): June 2, 2014

Violation Information

Failed to comply with permitted effluent limits for dissolved oxygen and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011915001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By March 1, 2014, the Respondent has repaired two aeration tank rotors, repaired the clarifier return pump, replaced rivets in the clarifier skirt with stainless steel bolts, and returned to compliance with the permitted effluent limits of the TPDES Permit No. WQ0011915001.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

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: Jason Fraley, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2552; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Jerry McGinty, Chief Financial Officer, Texas Department of Criminal Justice, P.O. Box 4015 Huntsville, Texas 77342
Respondent's Attorney: N/A

Attachment A

Docket Number: 2014-0878-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Criminal Justice
Penalty Amount:	Eight Thousand One Hundred Dollars (\$8,100)
SEP Offset Amount:	Eight Thousand One Hundred Dollars (\$8,100)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texoma Council of Governments
Project Name:	<i>Household Hazardous Waste Collection Events</i>
Location of SEP:	Cooke, Fannin, and Grayson Counties; Red River, Trinity River, & Sulphur River Basins

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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texoma Council of Governments** for the *Household Hazardous Waste Collection Events* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to hold household hazardous waste (“HHW”) collection events in three regional locations, Cooke, Grayson, and Fannin Counties, to offer citizens the opportunity to recycle and/or dispose of hazardous material including paint, tires, poisons, antifreeze, used electronics, and other items that are difficult to dispose of in order to deter illegal dumping of these materials. The SEP Offset Amount will be used to hire a licensed contractor to set up operations at the three locations. Materials that are received for recycling or disposal will be removed by the contractor and transported to a licensed facility for proper disposal of all waste collected at the events. The licensed contractor will process and handle all material dropped off at the events. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Texas Department of Criminal Justice
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

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

b. Environmental Benefit

Illegal dumping is a significant environmental concern. HHW collection events take a major burden off of local governments and provide a means for citizens to easily recycle and dispose of hazardous items. The majority of the region of Cooke, Fannin, and Grayson Counties is rural. HHW Collection services are not available to many of the region’s rural citizens, leading people to collect hazardous materials on their properties or to improperly dispose of them. These events will reduce the amount of illegal dumping in the area, which reduces pollutants on land and in water. Additionally, in areas where adequate disposal facilities are not available, hazardous materials often end up in creeks or ditches along roadsides, which impacts water quality and wildfire.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texoma Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texoma Council of Governments
Attention: David Trout, Municipal Solid Waste Program Manager
1117 Gallagher Drive
Sherman, Texas 75418

3. **Records and Reporting**

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

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

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the 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. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

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

5. **Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the 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

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

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the 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 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	9-Jun-2014	Screening	11-Jun-2014	EPA Due	5-Sep-2014
	PCW	11-Jun-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Department of Criminal Justice		
Reg. Ent. Ref. No.	RN102315553		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48816	No. of Violations	1
Docket No.	2014-0878-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jason Fraley
		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** **\$11,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **15.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,687**

Notes: Enhancement for three months of self-reported effluent 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** **-\$2,812**

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

Total EB Amounts: \$375
 Estimated Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$10,125**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$10,125**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$10,125**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,025**

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 **\$8,100**

Screening Date 11-Jun-2014

Docket No. 2014-0878-MWD-E

PCW

Respondent

Texas Department of Criminal Justice

Policy Revision 4 (April 2014)

Case ID No. 48816

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102315553

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

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>)	3	15%
	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 judgments 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) 15%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for three months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 15%

Screening Date 11-Jun-2014
Respondent Texas Department of Criminal Justice
Case ID No. 48816
Reg. Ent. Reference No. RN102315553
Media [Statute] Water Quality
Enf. Coordinator Jason Fraley

Docket No. 2014-0878-MWD-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011915001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on May 20, 2014, and shown in the attached violation table.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text" value="15.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors 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="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

Three quarterly events are recommended for the quarters containing the months of June 2013, October 2013, and February 2014.

Good Faith Efforts to Comply

Reduction

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

Notes: The Respondent achieved compliance by March 31, 2014.

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 Texas Department of Criminal Justice
Case ID No. 48816
Reg. Ent. Reference No. RN102315553
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Jun-2013	31-Mar-2014	0.75	\$375	n/a	\$375

Notes for DELAYED costs

Estimated cost to repair two aeration tank rotors and the clarifier return pump, and to replace rivets in the clarifier skirt with stainless steel bolts. The date required is the initial date of noncompliance, and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$375

Texas Department of Criminal Justice
Docket No. 2014-0878-MWD-E
TPDES Permit No. WQ0011915001

Monitoring Periods	Permitted Effluent Limits		
	Dissolved Oxygen Monthly Minimum Concentration = 6 mg/L	Total Suspended Solids Daily Average Concentration = 15 mg/L	Total Suspended Solids Daily Maximum Concentration = 40 mg/L
June 2013	5.70	c	c
October 2013	c	17.14	67.30
February 2014	c	19.85	104.00

mg/L = milligrams per liter

c = compliant

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN601550650, RN102315553, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN601550650, Texas Department of Criminal Justice
Classification: SATISFACTORY **Rating:** 1.45

Regulated Entity: RN102315553, TDCJ BETO UNIT
Classification: SATISFACTORY **Rating:** 1.00

Complexity Points: 10
Repeat Violator: NO

CH Group: 14 - Other

Location: 1391 FARM-TO-MARKET ROAD 3328, TENNESSEE COLONY APPROXIMATELY SIX MILES NORTHWEST OF THE INTERSECTION OF UNITED STATES HIGHWAYS 84 AND 79 AND FARM-TO-MARKET ROAD 645, AND APPROXIMATELY TWO MILES WEST OF THE INTERSECTION OF FARM-TO-MARKET ROADS 645 AND 3328 IN ANDERSON COUNTY, TEXAS 77342

TCEQ Region: REGION 05 - TYLER

ID Number(s):

MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 40005	WASTEWATER AGRICULTURE PERMIT TXG920540
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0010044	AIR NEW SOURCE PERMITS REGISTRATION 53587
AIR NEW SOURCE PERMITS REGISTRATION 53677	AIR NEW SOURCE PERMITS REGISTRATION 39552
AIR NEW SOURCE PERMITS REGISTRATION 44376	AIR NEW SOURCE PERMITS REGISTRATION 44930
AIR NEW SOURCE PERMITS ACCOUNT NUMBER AA0074L	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 22130
WASTEWATER PERMIT WQ0011915001	WASTEWATER EPA ID TX0075388

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: June 11, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 11, 2009 to June 11, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jason Fraley

Phone: (512) 239-2552

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 14, 2009	(770977)
Item 2	June 25, 2009	(742714)
Item 3	August 26, 2009	(812775)
Item 4	September 17, 2009	(812776)
Item 5	October 13, 2009	(812777)
Item 6	November 17, 2009	(812778)
Item 7	December 17, 2009	(812779)
Item 8	December 22, 2009	(785842)
Item 9	February 19, 2010	(812774)
Item 10	March 15, 2010	(833706)
Item 11	April 14, 2010	(833707)
Item 12	May 18, 2010	(833708)
Item 13	July 01, 2010	(927944)
Item 14	July 11, 2010	(927945)
Item 15	August 27, 2010	(927946)
Item 16	September 20, 2010	(874891)
Item 17	October 18, 2010	(882490)
Item 18	December 20, 2010	(888932)
Item 19	January 12, 2011	(903185)
Item 20	January 13, 2011	(897281)
Item 21	January 31, 2011	(893160)
Item 22	February 17, 2011	(910105)
Item 23	March 18, 2011	(917306)
Item 24	June 03, 2011	(923003)
Item 25	June 16, 2011	(946378)
Item 26	July 05, 2011	(953658)
Item 27	September 22, 2011	(966328)
Item 28	October 21, 2011	(972343)
Item 29	December 15, 2011	(974503)
Item 30	January 20, 2012	(985316)
Item 31	February 17, 2012	(998940)
Item 32	March 15, 2012	(1004468)
Item 33	August 16, 2012	(1038960)
Item 34	September 20, 2012	(1047882)
Item 35	October 16, 2012	(1036264)
Item 36	November 19, 2012	(1066032)
Item 37	December 18, 2012	(1066033)
Item 38	February 15, 2013	(1081125)
Item 39	March 13, 2013	(1090348)
Item 40	March 21, 2013	(1075532)
Item 41	May 15, 2013	(1107668)
Item 42	June 13, 2013	(1111306)
Item 43	August 07, 2013	(1136318)
Item 44	August 23, 2013	(1125997)
Item 45	September 17, 2013	(1130548)
Item 46	November 25, 2013	(1132751)
Item 47	December 17, 2013	(1148164)
Item 48	January 16, 2014	(1154235)
Item 49	February 18, 2014	(1161552)
Item 50	May 22, 2014	(1165587)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 06/30/2013 (1118204)

CN601550650

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

2 Date: 10/31/2013 (1141697) CN601550650
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

3 Date: 02/28/2014 (1168186) CN601550650
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
TEXAS DEPARTMENT OF
CRIMINAL JUSTICE
RN102315553

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

AGREED ORDER
DOCKET NO. 2014-0878-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 Texas Department of Criminal Justice (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 plant located at 1391 Farm-to-Market Road 3328 in Tennessee Colony, approximately six miles northwest of the intersection of United States Highways 84 and 79 and Farm-to-Market Road 645, and approximately two miles west of the intersection of Farm-to-Market Roads 645 and 3328 in Anderson 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 June 2, 2014.
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 Ten Thousand One Hundred Twenty-Five Dollars (\$10,125) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Twenty-Five Dollars (\$2,025) 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. Eight Thousand One Hundred Dollars (\$8,100) 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 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 recognizes that by March 31, 2014, the Respondent has implemented the following corrective measures at the Facility:
 - a. Repaired two aeration tank rotors;
 - b. Repaired the clarifier return pump;
 - c. Replaced rivets in the clarifier skirt with stainless steel bolts; and
 - d. Returned to compliance with the permitted effluent limits of the Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011915001.
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 failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011915001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on May 20, 2014, and shown in the table below:

Monitoring Periods	Permitted Effluent Limits		
	Dissolved Oxygen Monthly Minimum Concentration = 6 mg/L	Total Suspended Solids Daily Average Concentration = 15 mg/L	Total Suspended Solids Daily Maximum Concentration = 40 mg/L
June 2013	5.70	c	c
October 2013	c	17.14	67.30
February 2014	c	19.85	104.00

mg/L = milligrams per liter

c = compliant

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: Texas Department of Criminal Justice, Docket No. 2014-0878-MWD-E" to:

Financial Administration Division, Revenue Operations 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, Eight Thousand One

Hundred Dollars (\$8,100) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The 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

Pammona
For the Executive Director

10/31/14
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.

Jerry McGinty
Signature

9/5/14
Date

Jerry McGinty
Name (Printed or typed)
Authorized Representative of
Texas Department of Criminal Justice

Chief Financial Officer
Title

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

Attachment A

Docket Number: 2014-0878-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Criminal Justice
Penalty Amount:	Eight Thousand One Hundred Dollars (\$8,100)
SEP Offset Amount:	Eight Thousand One Hundred Dollars (\$8,100)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texoma Council of Governments
Project Name:	<i>Household Hazardous Waste Collection Events</i>
Location of SEP:	Cooke, Fannin, and Grayson Counties; Red River, Trinity River, & Sulphur River Basins

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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texoma Council of Governments** for the *Household Hazardous Waste Collection Events* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to hold household hazardous waste (“HHW”) collection events in three regional locations, Cooke, Grayson, and Fannin Counties, to offer citizens the opportunity to recycle and/or dispose of hazardous material including paint, tires, poisons, antifreeze, used electronics, and other items that are difficult to dispose of in order to deter illegal dumping of these materials. The SEP Offset Amount will be used to hire a licensed contractor to set up operations at the three locations. Materials that are received for recycling or disposal will be removed by the contractor and transported to a licensed facility for proper disposal of all waste collected at the events. The licensed contractor will process and handle all material dropped off at the events. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Texas Department of Criminal Justice
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

b. Environmental Benefit

Illegal dumping is a significant environmental concern. HHW collection events take a major burden off of local governments and provide a means for citizens to easily recycle and dispose of hazardous items. The majority of the region of Cooke, Fannin, and Grayson Counties is rural. HHW Collection services are not available to many of the region's rural citizens, leading people to collect hazardous materials on their properties or to improperly dispose of them. These events will reduce the amount of illegal dumping in the area, which reduces pollutants on land and in water. Additionally, in areas where adequate disposal facilities are not available, hazardous materials often end up in creeks or ditches along roadsides, which impacts water quality and wildfire.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texoma Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texoma Council of Governments
Attention: David Trout, Municipal Solid Waste Program Manager
1117 Gallagher Drive
Sherman, Texas 75418

3. **Records and Reporting**

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

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

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the 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. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

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

5. **Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the 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

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

7. Other SEPs by TCEQ or Other Agencies

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