

Kleberg County
RN101716678
Docket No. 2013-1562-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (5 NOVs) over the prior five year period for the same violations.

Media:

MWD

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

southwest corner of Ricardo, approximately 0.1 mile west of United States Highway 77 and approximately 0.34 miles south of Farm-to-Market Road 1118, Kingsville, Kleberg County

Type of Operation:

wastewater treatment plant ("WWTP")

Other Significant Matters:

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

Texas Register Publication Date: December 5, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$11,250

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

SEP Conditional Offset: \$11,250

Name of SEP: Compliance SEP - *Upgrades to Clarifier Unit at WWTP*

Compliance History Classifications:

Person/CN – Satisfactory
 Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Kleberg County

RN101716678

Docket No. 2013-1562-MWD-E

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: June 13, 2013; August 8, 2013

Date(s) of NOV(s): See Compliance History - 5 related NOVs

Date(s) of NOE(s): June 25, 2013

Violation Information

1. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE § 305.125(1) and (17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013374003, Monitoring and Reporting Requirements No. 1].
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012 [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013374003, Sludge Provisions].
3. Failed to collect and analyze samples for *E. coli* [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4 and TPDES Permit No. WQ0013374003, Effluent Limitations and Monitoring Requirements No. 1].
4. Failed to comply with permitted effluent limits [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0013374003, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

1. Submitted discharge monitoring reports ("DMRs") for the monthly monitoring periods ending October 31, November 30, and December 31, 2012, and February 28 and March 31, 2013.
2. Submitted the annual sludge report for the monitoring period ending July 31, 2012.

Technical Requirements:

1. Within 30 days:
 - a. Update operational guidance to ensure that DMRs and annual sludge reports are submitted as required and that all effluent parameters, including *E. coli*, are monitored at the frequency specified in the permit; and
 - b. Submit the DMR for the quarterly monitoring period ending February 28, 2013.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 90 days submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013374003, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: February 25, 2014

Date Answer(s) Filed: April 18, 2014

SOAH Referral Date: May 30, 2014

Hearing Date(s):

Preliminary Hearing: July 10, 2014 (waived)

Evidentiary Hearing: October 23, 2014 (scheduled)

Settlement Date: October 9, 2014

Kleberg County

RN101716678

Docket No. 2013-1562-MWD-E

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Isabel Segarra Trevino, Public Interest Counsel, (512) 239-6363

TCEQ SEP Attorney: Meaghan Bailey, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Lanae Foard, Enforcement Division, (512) 239-2554

TCEQ Regional Contact: Melanie Edwards, Corpus Christi Regional Office, (361) 825-3106

Respondent Contact: Honorable Juan Escobar, Kleberg County Judge, Kleberg County, P.O. Box 752, Kingsville, Texas 78364

Respondent's Attorney: Kira Talip, County Attorney, Kleberg County, P.O. Box 1411, Kingsville, Texas 78364

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Attachment A
Docket Number: 2013-1562-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kleberg County
Penalty Amount:	Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
SEP Offset Amount:	Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
Type of SEP:	Compliance SEP
Project Name:	<i>Upgrades to Clarifier Unit at WWTP</i>
Location of SEP:	Kleberg County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform 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 upgrade the clarifier unit to improve the operation at the facility. The upgrades will include installing a new aluminum protective enclosure referred to as a “chain guard” that will prevent floating plastics and other trash from entering the aeration basin area of the drive chain and sprocket assembly; install new ultra-high-molecular-weight polyethylene (“UHMW”) non-metallic wear shoes on the scraper flights of the return rail in the Clarifier; install new UHMW plastic, sleeve-type roller bearings on the Clarifier Mechanism Shaft; and install a new Clarifier assembly including gear motor and main drive, drive sprocket chain with six scrapers, and return rails and brackets. Specifically, the SEP Offset Amount shall be used for materials, supplies, equipment, and contracting services for one or more of the following: aluminum protective enclosure, a “chain guard;” UHMW wear shoes, and UHMW plastic sleeve-type roller bearings; and Clarifier assembly (the “Project”). Respondent may solicit bids from qualified contractors to install the system. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. 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. 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 not previously performed 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	Units	Total
Aluminum protective enclosure (chain guard)	1	\$6,200	Each	\$6,200
UHMW non-metallic wear shoes on the scraper flights of the return rail in the Clarifier	1	\$1,500	Each	\$1,500
UHMW plastic, sleeve-type roller bearings on the Clarifier Mechanism Shaft	1	\$1,300	Each	\$1,300
New Clarifier Assembly: Gear motor and main drive Drive sprocket chain with scrapers Return rails and brackets	1	\$11,000	Each	\$11,000
Total				\$20,000

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 90 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 60 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 30-day period and setting forth a schedule for achieving completion of the

Project within the 90-day time-frame set forth in Section 2, Performance Schedule, above. Respondent shall submit progress reports to the TCEQ in 30-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
60	Actions completed during previous 30-day period
90	Notice of SEP completion

B. Final Report

Within 90 days after the effective date of the Agreed Order, or within 30 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), if applicable;
4. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
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 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow

representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not 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. After receiving notice of failure to complete the SEP, 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	21-Aug-2013		
	PCW	21-Aug-2013	Screening	21-Aug-2013
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Kleberg County
Reg. Ent. Ref. No.	RN101716678
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	47458	No. of Violations	5
Docket No.	2013-1562-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	25.0% Enhancement Subtotals 2, 3, & 7	\$2,250

Notes: Enhancement for one NOV with same/similar violations and four months of self-reported effluent violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$341	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$10,525		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes:

Final Penalty Amount	\$11,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)				

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$11,250
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Screening Date 21-Aug-2013

Docket No. 2013-1562-MWD-E

PCW

Respondent Kleberg County

Policy Revision 3 (September 2011)

Case ID No. 47458

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101716678

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> 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 one NOV with same/similar violations and four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date	21-Aug-2013	Docket No.	2013-1562-MWD-E	PCW
Respondent	Kleberg County			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	47458			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101716678			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013374003, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit a discharge monitoring report ("DMR") for the quarterly monitoring period ending February 28, 2013, by the 20th day of the following month, as documented during a record review conducted on June 13, 2013.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the permit requirement was not met.

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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
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	\$25	20-Mar-2013	18-Mar-2014	0.99	\$1	n/a	\$1
Training/Sampling	\$250	31-May-2012	18-Mar-2014	1.80	\$22	n/a	\$22
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 submit the missing DMR; and to update operational guidance to ensure that DMRs and annual sludge reports are submitted as required and that all effluent parameters, including Escherichia coli ("E. coli"), are monitored at the frequency specified in the permit. Dates required are the date the DMR was due and the date the first missed sample was due. 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	\$275	TOTAL	\$24
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Screening Date 21-Aug-2013
Respondent Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Docket No. 2013-1562-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	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" value="x"/>	<input type="text" value="1.0%"/>

Matrix Notes

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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

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 Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	30-Sep-2012	18-Jul-2013	0.80	\$2	n/a	\$2
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 submit the annual sludge report. Date required is the date the report was due. Final date is the date the report was submitted.

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 \$50

TOTAL \$2

Screening Date 21-Aug-2013
Respondent Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Docket No. 2013-1562-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0013374003, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit DMRs for the monthly monitoring periods ending October 31, 2012; November 30, 2012; December 31, 2012; February 28, 2013; and March 31, 2013; by the 20th day of the following month, as documented during a record review conducted on August 8, 2013.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>

Percent

Matrix Notes

More than 70% of the permit requirement was met.

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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Five single events are recommended, one for each DMR.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$125	20-Mar-2013	18-Jul-2013	0.33	\$2	n/a	\$2
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 submit the missing DMRs (\$25 per DMR). Date required is the date the DMRs were due. Final date is the date the DMRs were submitted.

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

\$125

TOTAL

\$2

Screening Date 21-Aug-2013
Respondent Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Docket No. 2013-1562-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<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

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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

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 Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
Media Water Quality
Violation No. 4

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

Delayed costs for this violation have been included with Violation No. 1.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$75	31-May-2012	8-Aug-2013	2.11	\$8	\$75	\$83
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost that was avoided by failing to analyze the required parameters at \$25 per sample. Date required is the date the first missed sample was due. Final date is the record review date.

Approx. Cost of Compliance

\$75

TOTAL

\$83

Screening Date 21-Aug-2013
Respondent Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Docket No. 2013-1562-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 5

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0013374003, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on August 8, 2013, and shown in the attached violation table.

Base Penalty \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor

Percent 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 \$23,750

\$1,250

Violation Events

Number of Violation Events 2

92 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$230

Violation Final Penalty Total \$3,125

This violation Final Assessed Penalty (adjusted for limits) \$3,125

EFFLUENT VIOLATION TABLE
Kleberg County
TPDES Permit No. WQ0013374003
Docket No. 2013-1562-MWD-E
Violation No. 5

Permitted Effluent Limits	Monitoring Period		
	November 2012	December 2012	March 2013
TSS Single Grab Limit = 65 mg/L	76.0	c	c
TSS Daily Average Concentration Limit = 20 mg/L	44.75	21.50	30.82

TSS = total suspended solids
mg/L = milligrams per liter
c = compliant

Economic Benefit Worksheet

Respondent Kleberg County
Case ID No. 47458
Reg. Ent. Reference No. RN101716678
Media Water Quality
Violation No. 5

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-Nov-2013	17-May-2014	0.46	\$230	n/a	\$230

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 \$230

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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.



Compliance History Report

PENDING Compliance History Report for CN600248702, RN101716678, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600248702, Kleberg County

Classification: SATISFACTORY

Rating: 14.37

Regulated Entity: RN101716678, RICARDO WWTP

Classification: SATISFACTORY

Rating: 8.80

Complexity Points: 4

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: In the southwest corner of Ricardo, approximately 0.1 mile west of United States Highway 77 and approximately 0.34 mile south of Farm-to-Market Road 1118, Kleberg County, Texas.

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s): WASTEWATER PERMIT WQ0013374003

WASTEWATER EPA ID TX0113981

Compliance History Period: September 01, 2008 to August 31, 2013

Rating Year: 2013

Rating Date: 09/01/2013

Date Compliance History Report Prepared: September 16, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 16, 2008 to September 16, 2013

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

Name: Lanae Foard

Phone: (512) 239-2554

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	September 18, 2008	(716999)	Item 24	December 23, 2010	(897941)
Item 2	September 19, 2008	(716998)	Item 25	January 18, 2011	(910732)
Item 3	November 03, 2008	(732393)	Item 26	January 21, 2011	(903841)
Item 4	December 10, 2008	(732394)	Item 27	March 11, 2011	(917983)
Item 5	December 29, 2008	(732395)	Item 28	March 21, 2011	(917984)
Item 6	May 04, 2009	(772730)	Item 29	April 20, 2011	(930008)
Item 7	May 28, 2009	(772731)	Item 30	May 23, 2011	(939691)
Item 8	June 26, 2009	(818288)	Item 31	June 20, 2011	(947102)
Item 9	August 10, 2009	(818289)	Item 32	July 25, 2011	(954364)
Item 10	August 27, 2009	(818290)	Item 33	August 24, 2011	(960944)
Item 11	October 23, 2009	(818291)	Item 34	September 26, 2011	(967042)
Item 12	November 30, 2009	(818292)	Item 35	October 24, 2011	(973001)
Item 13	December 28, 2009	(818293)	Item 36	February 01, 2012	(999637)
Item 14	January 22, 2010	(818294)	Item 37	April 20, 2012	(1011763)
Item 15	April 09, 2010	(835651)	Item 38	May 21, 2012	(1018121)
Item 16	May 06, 2010	(835652)	Item 39	June 20, 2012	(1025862)
Item 17	May 27, 2010	(835653)	Item 40	July 20, 2012	(1033214)
Item 18	June 28, 2010	(847736)	Item 41	August 17, 2012	(1039728)
Item 19	June 30, 2010	(862136)	Item 42	September 26, 2012	(1048673)
Item 20	September 07, 2010	(889576)	Item 43	October 24, 2012	(1069222)
Item 21	September 29, 2010	(875612)	Item 44	February 26, 2013	(1082653)
Item 22	October 25, 2010	(883162)	Item 45	July 18, 2013	(1112009)
Item 23	November 22, 2010	(889577)	Item 46	July 30, 2013	(1118951)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KLEBERG COUNTY;
RN101716678**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2013-1562-MWD-E

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

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

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

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

FINDINGS OF FACT

1. Respondent owns and operates a wastewater treatment facility located in the southwest corner of Ricardo, approximately 0.1 mile west of United States Highway 77 and approximately 0.34 mile south of Farm-to-Market Road 1118 in Kingsville, Kleberg County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on June 13, 2013, TCEQ staff documented that Respondent:
 - a. Failed to submit monitoring results at the intervals specified in the permit. Specifically, Respondent failed to submit a discharge monitoring report ("DMR") for the quarterly monitoring period ending February 28, 2013, by the 20th day of the following month; and
 - b. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012.
3. During a record review conducted on August 8, 2013, TCEQ staff documented that Respondent:
 - a. Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, Respondent failed to submit DMRs for the monthly monitoring periods ending October 31, 2012; November 30, 2012; December

31, 2012; February 28, 2013; and March 31, 2013; by the 20th day of the following month;

- b. Failed to collect and analyze samples for *E. coli*. Specifically, Respondent did not collect and analyze samples for *E. coli* during the quarterly monitoring periods ending May 31, 2012; August 31, 2012; and November 30, 2012; and
- c. Failed to comply with permitted effluent limits, as shown in the violation table below:

EFFLUENT VIOLATION TABLE			
Permitted Effluent Limits	Monitoring Period		
	November 2012	December 2012	March 2013
TSS Single Grab Limit = 65 mg/L	76.0	c	c
TSS Daily Average Concentration Limit = 20 mg/L	44.75	21.50	30.82
TSS = total suspended solids mg/L = milligrams per liter c = compliant			

- 4. The Executive Director recognizes that on July 18, 2013, Respondent implemented the following corrective measures at the Facility:
 - a. Submitted DMRs for the monthly monitoring periods ending October 31, 2012; November 30, 2012; December 31, 2012; February 28, 2013; and March 31, 2013; and
 - b. Submitted the annual sludge report for the monitoring period ending July 31, 2012.

CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
- 2. As evidenced by Findings of Fact Nos. 2.a. and 3.a., Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013374003, Monitoring and Reporting Requirements No. 1.
- 3. As evidenced by Finding of Fact No. 2.b., Respondent failed to timely submit the annual sludge report, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013374003, Sludge Provisions.
- 4. As evidenced by Finding of Fact No. 3.b., Respondent failed to collect and analyze samples for *E. coli*, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4 and TPDES Permit No. WQ0013374003, Effluent Limitations and Monitoring Requirements No. 1.
- 5. As evidenced by Finding of Fact No. 3.c., Respondent 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. WQ0013374003, Effluent Limitations and Monitoring Requirements No. 1.
- 6. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within

TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

7. An administrative penalty in the amount of eleven thousand two hundred fifty dollars (\$11,250.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, eleven thousand two hundred fifty dollars (\$11,250.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the SEP Agreement and any payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 7, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall implement and complete a SEP as set forth in Conclusion of Law No. 7, above. The amount of eleven thousand two hundred fifty dollars (\$11,250.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Update operational guidance to ensure that DMRs and annual sludge reports are submitted as required and that all effluent parameters,

including *E. coli*, are monitored at the frequency specified in the permit; and

- ii. Submit the DMR for the quarterly monitoring period ending February 28, 2013, in accordance with TPDES Permit No. WQ0013374003, Monitoring and Reporting Requirements No. 1.
- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.d., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii.
- c. Within 90 days after the effective date of this Agreed Order, Respondent shall submit, in accordance with Ordering Provision No. 3.d., below, written certification of compliance with the effluent limits of TPDES Permit No. WQ0013374003, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Kelly Ruble, Water Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
NRC Building, Suite 1200
6300 Ocean Drive, Unit 5839
Corpus Christi, Texas 78412-5839

4. All relief not expressly granted in this Agreed Order is denied.
5. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

6. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 3.d.
8. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
9. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
12. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Kleberg County
Docket No. 2013-1562-MWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

January 5, 2015
Date

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

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

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

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

Juan Escobar
Signature - Honorable Juan Escobar, Kleberg County Judge
Kleberg County
P.O. Box 752
Kingsville, Texas 78364

10/09/2014
Date

If mailing address has changed, please check this box and provide the new address below:

Attachment A
Docket Number: 2013-1562-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kleberg County
Penalty Amount:	Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
SEP Offset Amount:	Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
Type of SEP:	Compliance SEP
Project Name:	<i>Upgrades to Clarifier Unit at WWTP</i>
Location of SEP:	Kleberg County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform 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 upgrade the clarifier unit to improve the operation at the facility. The upgrades will include installing a new aluminum protective enclosure referred to as a “chain guard” that will prevent floating plastics and other trash from entering the aeration basin area of the drive chain and sprocket assembly; install new ultra-high-molecular-weight polyethylene (“UHMW”) non-metallic wear shoes on the scraper flights of the return rail in the Clarifier; install new UHMW plastic, sleeve-type roller bearings on the Clarifier Mechanism Shaft; and install a new Clarifier assembly including gear motor and main drive, drive sprocket chain with six scrapers, and return rails and brackets. Specifically, the SEP Offset Amount shall be used for materials, supplies, equipment, and contracting services for one or more of the following: aluminum protective enclosure, a “chain guard;” UHMW wear shoes, and UHMW plastic sleeve-type roller bearings; and Clarifier assembly (the “Project”). Respondent may solicit bids from qualified contractors to install the system. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. 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. 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 not previously performed 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	Units	Total
Aluminum protective enclosure (chain guard)	1	\$6,200	Each	\$6,200
UHMW non-metallic wear shoes on the scraper flights of the return rail in the Clarifier	1	\$1,500	Each	\$1,500
UHMW plastic, sleeve-type roller bearings on the Clarifier Mechanism Shaft	1	\$1,300	Each	\$1,300
New Clarifier Assembly: Gear motor and main drive Drive sprocket chain with scrapers Return rails and brackets	1	\$11,000	Each	\$11,000
Total				\$20,000

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 90 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 60 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 30-day period and setting forth a schedule for achieving completion of the

Project within the 90-day time-frame set forth in Section 2, Performance Schedule, above. Respondent shall submit progress reports to the TCEQ in 30-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
60	Actions completed during previous 30-day period
90	Notice of SEP completion

B. Final Report

Within 90 days after the effective date of the Agreed Order, or within 30 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), if applicable;
4. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
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 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow

representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not 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. After receiving notice of failure to complete the SEP, 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.