

City of Wolfe City
RN102896255
Docket No. 2012-0044-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (28 NOVs, 2 Orders) over the prior five year period for the same violations.

Media:

Municipal Waste Discharge (“MWD”)

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

adjacent to Oyster Creek approximately 0.3 mile east of State Highway 34 and 0.5 mile south of Wolfe City, Hunt County

Type of Operation:

wastewater treatment facility

Other Significant Matters:

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

Texas Register Publication Date: May 8, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: \$29,575

Supplemental Environmental Project (“SEP”) Conditional Offset: \$29,575

Name of SEP: Compliance SEP - *Installation of Aerators in Lagoon One*

Compliance History Classifications:

Person/CN – Average
 Site/RN – Average

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1 and PCW 2);
 September 2011 (PCW 3)

City of Wolfe City

RN102896255

Docket No. 2012-0044-MWD-E

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 24 - March 8, 2011; October 17 - 18, 2011; November 18, 2011

Date(s) of NOV(s): See Compliance History – 28 related NOVs

Date(s) of NOE(s): October 21, 2011; December 19, 2011; February 9, 2012

Violation Information

1. Failed to properly operate and maintain all facilities and systems of treatment and control (high level alarms were not installed at three lift stations) [30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(5), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010383001, Operational Requirements No. 1].
2. Failed to submit a non-compliance notification to the Executive Director when a permit limit is exceeded by more than 40% (total suspended solids) [30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010383001, Monitoring and Reporting Requirements No. 7(c)].
3. Failed to comply with permitted effluent limits for 5-day biochemical oxygen demand (“BOD₅”) and pH [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010383001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].
4. Failed to comply with permitted effluent limits for BOD₅ and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010383001, Effluent Limitations and Monitoring Requirements No. 1].
5. Failed to submit the annual sludge report for the monitoring period ending July 31, 2011 by September 30, 2011 [30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010383001, Sludge Provisions].

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

Installed high level alarms at the three lift stations by December 23, 2013 (violation no. 1).

Technical Requirements:

1. Within 30 days:
 - a. Update operational guidance and conduct employee training to ensure all non-compliance notification requirements and self-reporting requirements are properly accomplished, including the timely submittal of the annual sludge reports (violation nos. 2 and 5); and
 - b. Submit the annual sludge report for the monitoring period ending July 31, 2011 (violation no. 5).
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. and 1.b.
3. Within 90 days, submit written certification to demonstrate compliance with permitted effluent limitations, including specific corrective actions implemented at the Facility to achieve compliance and copies of the most current self-reported Discharge Monitoring Reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations (violation nos. 3 and 4).

City of Wolfe City

RN102896255

Docket No. 2012-0044-MWD-E

Litigation Information

Date Petition(s) Filed: August 29, 2014
Date Answer Filed: September 22, 2014
SOAH Referral Date: November 5, 2014
Hearing Date(s):
Preliminary Hearing: December 18, 2014 (waived)
Evidentiary Hearing: May 14, 2014 (scheduled)
Settlement Date: March 30, 2015

Contact Information

TCEQ Attorneys: Joel Cordero, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363
TCEQ SEP Attorney: Meaghan Bailey, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, (817) 588-5825
TCEQ Regional Contact: Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5880
Respondent Contact: The Honorable Barbara Woodruff, Mayor of Wolfe City, P.O. Box 106,
Wolfe City, Texas 75496
Respondent's Attorney: Brad Castleberry, Lloyd Gosselink Rochelle & Townsend, P.C.,
816 Congress Ave., Suite 1900, Austin, Texas 78701

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Attachment A
Docket Number: 2012-0044-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Wolfe City
Penalty Amount:	Twenty-Nine Thousand Five Hundred Seventy-Five Dollars (\$29,575)
SEP Offset Amount:	Twenty-Nine Thousand Five Hundred Seventy-Five Dollars (\$29,575)
Type of SEP:	Compliance SEP
Project Name:	<i>Installation of Aerators in Lagoon One</i>
Location of SEP:	Hunt 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 Respondent’s wastewater treatment facility. Respondent shall purchase and install three aerators in Lagoon One at the wastewater treatment facility located adjacent to Oyster Creek approximately 0.3 mile east of State Highway 34 and 0.5 mile south of Wolfe City in Hunt County, Texas. Specifically, the SEP Offset Amount shall be used for materials, supplies, equipment, and contract labor for one or more of the following: aerators, moorings, electrical installation and hookup (the “Project”). Respondent shall 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 is performing the Compliance SEP solely as part of the terms of settlement in the 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
3hp Aqua Jet Surface aerators	3	\$6,300	Each	\$18,900
Electrical motor cable	1	\$1,500	Each	\$1,500
Motor starters	3	\$700	Each	\$2,100
Safety switch	1	\$291.65	Each	\$291.65
Stainless steel cable for mooring	1	\$2,180	Each	\$2,180
Stainless steel clamps for mooring	1	268.32	Set	\$268.32
Mooring posts and sets	8	\$225	Each	\$1,800
2" conduit	500	\$0.66	Foot	\$330.50
2" conduit fittings	1	\$220	Set	\$220
Electrical junction boxes	1	\$160	Set	\$160
Post-setting labor	1	\$2,100	Each	\$2,100
Conduit installation labor	1	\$1,840	Each	\$1,840
Aerator installation labor	1	\$2,520	Each	\$2,520
Electrical installation & hookup	1	\$4,250	Each	\$4,250
Total				\$38,460.47

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 after the effective date of this Agreed Order, Respondent shall submit a Progress Report detailing the progress made and all actions completed on the Project during the previous 30-day period. In 90 days, Respondent shall submit a Final Report to the TCEQ containing detailed information on all actions completed on the Project 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 photographs of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project;
6. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
7. Any additional information demonstrating compliance with this Attachment A.

C. Address

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

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-31087

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. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

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

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008



TCEQ

DATES	Assigned	24-Oct-2011			
	PCW	28-Jul-2014	Screening	7-Nov-2011	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	City of Wolfe City			
Reg. Ent. Ref. No.	RN102896255			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	43221	No. of Violations	2
Docket No.	2012-0044-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	185.0%	Enhancement	Subtotals 2, 3, & 7	\$9,250
Notes	Enhancement for 24 months of self-reported effluent violations, four NOVs with same/similar violations, one order with denial of liability, and one order without denial of liability.			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$0
Economic Benefit		0.0%	Enhancement*	Subtotal 6
Total EB Amounts	\$1,018	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$5,100			

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$14,250**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-20.0%** **Adjustment** **-\$2,850**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Reduction in the penalty so that reporting violations do not overly impact the penalty amount.		
	Final Penalty Amount	\$11,400	

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$11,400**

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.		
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PAYABLE PENALTY **\$11,400**

Screening Date 7-Nov-2011

Docket No. 2012-0044-MWD-E

PCW

Respondent City of Wolfe City

Policy Revision 2 (September 2002)

Case ID No. 43221

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102896255

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	28	140%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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	1	25%
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) 185%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 24 months of self-reported effluent violations, four NOVs with same/similar violations, one order with denial of liability, and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 185%

Screening Date	7-Nov-2011	Docket No.	2012-0044-MWD-E	PCW
Respondent	City of Wolfe City			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43221			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102896255			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010383001, Operational Requirements No. 1

Violation Description

Failed to properly operate and maintain all facilities and systems of treatment and control, as documented during a record review conducted on October 17, 2011. Specifically, functioning high level alarms were not installed at three of the Facility's lift stations.

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"/>	x	<input type="text"/>

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events

Number of violation days

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

Violation Base Penalty

Three quarterly events are recommended from the record review date (October 17, 2011) to the screening date (November 7, 2011), one quarter for each lift station.

Good Faith Efforts to Comply

0.0% Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Wolfe City
Case ID No. 43221
Reg. Ent. Reference No. RN102896255
Media Violation No. Water Quality
 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	\$4,500	24-Feb-2011	23-Dec-2013	2.83	\$42	\$849	\$891
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to install a high level alarm (\$1500/lift station). Date required is the date the violation was first documented. 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	\$4,500	TOTAL	\$891
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Screening Date	7-Nov-2011	Docket No.	2012-0044-MWD-E	PCW
Respondent	City of Wolfe City			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43221			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102896255			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010383001, Monitoring and Reporting Requirements No. 7(c)

Violation Description

Failed to submit a non-compliance notification to the Executive Director when a permit limit is exceeded by more than 40%. Specifically, five-day biochemical oxygen demand and total suspended solids exceeded the permit limits by more than 40% during the monitoring periods ending March 31, 2010 and July 31, 2010 and non-compliance notifications were not submitted.

Base Penalty

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

OR	Harm			Percent <input type="text" value="0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>		<input type="text"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="10%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

100% of the rule 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

Two single events are recommended, one for each report.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Wolfe City
Case ID No. 43221
Reg. Ent. Reference No. RN102896255
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	17-Oct-2011	30-Jun-2012	0.70	\$18	n/a	\$18
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 update operational guidance and conduct employee training to ensure all reporting requirements are accomplished. Date required is the record review date. 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]	\$50	1-Apr-2010	1-Aug-2010	1.25	\$3	\$50	\$53
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs Estimated avoided costs for not submitting the non-compliance notifications (\$25 per report). Date Required is the date the first report was due. Final date is the date the last report was due.

Approx. Cost of Compliance \$550

TOTAL \$71



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Dec-2011			
	PCW	28-Jul-2014	Screening	30-Dec-2011	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	City of Wolfe City			
Reg. Ent. Ref. No.	RN102896255			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	43221	No. of Violations	2
Docket No.	2012-0044-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	185.0%	Enhancement	Subtotals 2, 3, & 7	\$10,175
Notes	Enhancement for 24 months of self-reported effluent violations, four NOV's with same/similar violations, one order with denial of liability, and one order without denial of liability.			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$0
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$1,015	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$10,050			

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$15,675**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
	Final Penalty Amount \$15,675

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$15,675**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY **\$15,675**

Screening Date	30-Dec-2011	Docket No.	2012-0044-MWD-E	PCW
Respondent	City of Wolfe City			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43221			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102896255			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	28	140%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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	1	25%
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) 185%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for 24 months of self-reported effluent violations, four NOVs with same/similar violations, one order with denial of liability, and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 185%

Screening Date	30-Dec-2011	Docket No.	2012-0044-MWD-E	PCW
Respondent	City of Wolfe City	Policy Revision 2 (September 2002)		
Case ID No.	43221	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN102896255			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			
Violation Number	1			
Rule Cite(s)	Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010383001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3			
Violation Description	Failed to comply with permitted effluent limits, as documented during a record review conducted on November 18, 2011 and shown in the attached table.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential		Percent
			x	10%

>> Programmatic Matrix

	Major	Moderate	Minor	
				Percent
				0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended for the quarters containing the monitoring periods ending October 31, 2010; January 31, 2011; March 31, 2011; and May 31, 2011.

Good Faith Efforts to Comply Reduction

	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 \$3,000

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$959"/>	Violation Final Penalty Total <input type="text" value="\$8,550"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$8,550"/>	

EFFLUENT VIOLATION TABLE
City of Wolfe City
TPDES Permit No. WQ0010383001
Docket No. 2012-0044-MWD-E
Violation No. 1

Months	BOD ₅ Daily Avg. Conc.	pH
	Limit = 30 mg/L	Min = 6.0 s.u.
October 2010	36	c
January 2011	39.15	2.9
March 2011	37.2	c
May 2011	32.3	c

mg/L = milligrams per liter

Conc. = concentration

c = compliant

min. = minimum

s.u. = standard units

BOD₅ = five-day biochemical oxygen demand

Economic Benefit Worksheet

Respondent City of Wolfe City
Case ID No. 43221
Reg. Ent. Reference No. RN102896255
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	31-Oct-2010	30-Sep-2012	1.92	\$959	n/a	\$959

Notes for DELAYED costs Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance **TOTAL**

Screening Date	30-Dec-2011	Docket No.	2012-0044-MWD-E	PCW
Respondent	City of Wolfe City	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	43221	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN102896255			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

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 <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$7,125"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$7,125"/>	

EFFLUENT VIOLATION TABLE City of Wolfe City TPDES Permit No. WQ0010383001 Docket No. 2012-0044-MWD-E Violation No. 2		
Month	BOD₅ Daily Avg. Conc.	<i>Escherichia coli</i> Single Grab
	Limit = 30 mg/L	Limit = 394 CFU
August 2011	37.4	3200

mg/L = milligrams per liter

Conc. = concentration

BOD₅ = five-day biochemical oxygen demand

CFU = colony forming units per 100 milliliters

Economic Benefit Worksheet

Respondent City of Wolfe City
Case ID No. 43221
Reg. Ent. Reference No. RN102896255
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

See economic benefit for Violation No. 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	19-Dec-2011	Screening	30-Dec-2011	EPA Due	
	PCW	9-May-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Wolfe City		
Reg. Ent. Ref. No.	RN102896255		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43221	No. of Violations	1
Docket No.	2012-0044-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		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	\$1,250
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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	100.0%	Enhancement	Subtotals 2, 3, & 7	\$1,250	
Notes	Enhancement for 24 months of self-reported effluent violations, four NOVs with same/similar violations, one order with denial of liability, and one order without denial of liability.				
Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.				
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$0	
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0	
Total EB Amounts	\$2	*Capped at the Total EB \$ Amount			
Approx. Cost of Compliance	\$50				

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes		
	Final Penalty Amount	\$2,500

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,500
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$2,500
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Screening Date 30-Dec-2011

Docket No. 2012-0044-MWD-E

PCW

Respondent City of Wolfe City

Policy Revision 3 (September 2011)

Case ID No. 43221

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102896255

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	28	140%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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	1	25%
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) 185%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 24 months of self-reported effluent violations, four NOVs with same/similar violations, one order with denial of liability, and one order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 185%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date	30-Dec-2011	Docket No.	2012-0044-MWD-E	PCW
Respondent	City of Wolfe City			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43221			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102896255			
Media [Statute]	Water Quality			
Enf. Coordinator	Heather Brister			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010383001 Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2011, by September 30, 2011, as documented during a record review conducted on November 18, 2011.

Base Penalty

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5.0%"/>

Matrix Notes 100% of the rule requirements were 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 checked="" type="text" value="x"/>
single event	<input type="text"/>

Violation Base Penalty

One annual 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 City of Wolfe City
Case ID No. 43221
Reg. Ent. Reference No. RN102896255
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)	\$50	30-Sep-2011	31-Jul-2012	0.84	\$2	n/a	\$2

Notes for DELAYED costs
 Estimated cost to prepare and submit the annual sludge report. See accompanying PCW assigned on October 24, 2011 for economic benefit related to employee training. Date required is date the report was due. Final date is the date 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 \$50

TOTAL \$2

Compliance History

Customer/Respondent/Owner-Operator: CN600646749 City of Wolfe City Classification: AVERAGE Rating: 25.61
Regulated Entity: RN102896255 CITY OF WOLFE CITY Classification: AVERAGE Site Rating: 9.66
ID Number(s): WASTEWATER PERMIT WQ0010383001
WASTEWATER LICENSING LICENSE WQ0010383001
Location: Adjacent to Oyster Creek approximately 0.5 mile south of Wolfe City and 0.3 mile east of State Highway 34 in Hunt County, Texas
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: January 04, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 04, 2007 to January 04, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Steve Villatoro Phone: (512) 239-4930

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 10/23/2008

ADMINORDER 2004-0072-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121

Rqmt Prov: Permit Conditions No. 2.g PERMIT

Description: Failed to prevent a discharge or disposal of wastewater into or adjacent to waters in the state at any locations not permitted as an outfall.

Classification: Moderate

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

Rqmt Prov: 10383-001 PERMIT

Description: Failed to provide verbal notification to the Executive Director for an unauthorized discharge within 24 hours of the discharge

Classification: Moderate

Citation: 30 TAC Chapter 317 317.7(e)

Description: Failed to properly secure the Facility.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(a)

Description: Failed to secure the Spencer lift station.

Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)

30 TAC Chapter 30, SubChapter J 30.350(c)

30 TAC Chapter 325, SubChapter B 325.100

Rqmt Prov: 10383-001 PERMIT

Description: Failed to employ a licensed operator to operate the Facility.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)

Description: Failed to provide a backflow prevention device.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: 10383-001 PERMIT

ELMR #3 PERMIT

Description: Failed to comply with permitted effluent limits for dissolved oxygen.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: 10383-001 PERMIT

Description: Failed to comply with the permitted effluent limits fo pH.

Classification: Moderate

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

Rqmt Prov: 10383-001 PERMIT

Description: Failed to properly maintain facility.

Classification: Minor

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

30 TAC Chapter 305, SubChapter F 305.125(11)(B)

Rqmt Prov: M&R Requirements No. 3(b) PERMIT

Description: Failed to maintain monitoring records required by the permit.

Effective Date: 12/04/2010

ADMINORDER 2009-1387-MWD-E

Classification: Moderate

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

TWC Chapter 26 26.121

Rqmt Prov: Permit Conditions 2.g PERMIT

Description: Failed to prevent the unauthorized discharges of wastewater.

Classification: Minor

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

30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: monitoring and reporting requirements no PERMIT

Description: Failed to submit complete and accurate Discharge Monitoring Reports (DMRs).

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	2/16/2007	(577473)	18	6/30/2008	(690680)	35	3/11/2010	(795340)	52	12/22/2010	(896482)
2	3/16/2007	(577474)	19	6/30/2008	(690681)	36	6/22/2009	(806451)	53	4/26/2011	(901120)
3	4/20/2007	(577475)	20	6/30/2008	(690682)	37	7/21/2009	(806452)	54	1/24/2011	(902514)
4	6/25/2007	(577476)	21	6/30/2008	(690683)	38	8/20/2009	(806453)	55	3/21/2011	(906313)
5	6/25/2007	(577477)	22	6/30/2008	(690684)	39	9/21/2009	(806454)	56	2/22/2011	(925429)
6	1/18/2007	(577478)	23	6/19/2008	(711522)	40	10/21/2009	(806455)	57	3/23/2011	(925430)
7	1/18/2007	(577479)	24	7/23/2008	(711523)	41	11/19/2009	(806456)	58	5/23/2011	(938238)
8	8/22/2007	(602205)	25	8/17/2008	(711524)	42	12/23/2009	(806457)	59	5/23/2011	(938239)
9	8/22/2007	(602206)	26	9/23/2008	(711525)	43	1/22/2010	(806458)	60	5/23/2011	(938240)
10	2/19/2008	(616245)	27	10/20/2008	(728050)	44	3/22/2010	(831509)	61	7/22/2011	(945614)
11	5/19/2008	(654547)	28	11/21/2008	(728051)	45	5/6/2010	(831510)	62	7/22/2011	(945615)
12	6/25/2008	(682512)	29	12/23/2008	(728052)	46	5/24/2010	(831511)	63	7/19/2011	(948214)
13	7/17/2008	(684602)	30	2/24/2009	(750959)	47	6/23/2010	(846464)	64	7/25/2011	(952856)
14	6/30/2008	(690676)	31	1/23/2008	(750960)	48	9/13/2010	(867060)	65	10/21/2011	(962953)
15	6/30/2008	(690677)	32	3/23/2009	(768896)	49	8/25/2010	(867061)	66	7/25/2011	(965558)
16	6/30/2008	(690678)	33	4/22/2009	(768897)	50	10/22/2010	(881720)	67	12/13/2011	(971212)
17	6/30/2008	(690679)	34	5/22/2009	(768898)	51	12/6/2011	(892372)			

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

- 1 **Date: 5/31/2007 (577477) CN600646749**
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: 6/30/2007 (602205) CN600646749**
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: 8/1/2007 (570844) CN600646749**
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(2)
Description: Failure to prevent unauthorized discharge of wastewater from the collection system.
- 4 **Date: 8/31/2007 (690680) CN600646749**
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
- 5 **Date: 2/28/2008 (616245) CN600646749**
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)
2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)
2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TPDES 10383-001 PERMIT
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)
Description: Failure to prevent the discharge of untreated wastewater. During the period of review which included all of FY07 and the first half of FY08. Wolfe City has reported a total of 10 unauthorized discharges. During FY07 Wolfe City reported eight unauthorized discharges from both the collection system and the WWTF headworks totaling 22,400 gallons. Thus far during FY08 Wolfe City has reported two unauthorized discharges totaling 225 gallons.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES 10383-001 PERMIT		
Description:	Failure to measure flow at the frequency and by the method required by the permit. During the investigation it was learned that the flow was not being measured using the 6 inch Parshall flume. Rather it was being estimated based on a percentage of water usage.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES 10383-001 PERMIT		
Description:	Failure to maintain compliance with permit effluent parameters for DO, BOD, and pH. The following effluent violations were document in the PCS data for the review period of February 2004 to August 2007: 16 dissolved oxygen minimum, 1 BOD, and 2 pH maximum.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.4 TPDES 10383-001 PERMIT		
Description:	Failure to sample in accordance with permit requirements. The City's contract laboratory was performing CBOD5 analysis when the permit requires BOD5.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b) TPDES 10383-001 PERMIT		
Description:	Failure to ensure that holding times are being met for fecal coliform analysis. During the investigation it was noted that fecal coliform samples are being collected by Ana-Lab's sampler and shipped overnight via Lone Star to the Kilgore facility prior to analysis. Also the chain of custody for the fecal coliform samples is not always completed correctly.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) TPDES 10383-001 PERMIT		
Description:	Failure to maintain required records for a minimum of three years. During the investigation only 18 month's worth of records were available, from January 2007 to present. All monitoring records, sample measurements, reports, and work logs must be retained for a minimum of three years. All sludge records must be kept for a minimum of five years.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to properly complete discharge monitoring reports. Several DMRs were incorrectly completed, or incomplete. A copy of the EPA NPDES Reporting Requirements Handbook was given to the City for reference.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)		
Description:	Failure to annually test the backflow prevention device and maintain the corresponding test report for three years. In addition, the hose bib behind the pump house did not have a vacuum breaker.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C) TPDES 10383-001 PERMIT		
Description:	Failure to submit the annual sludge report by September 1 each year. Even if no solids are disposed, the annual sludge report must be submitted to both Austin and the DFW Region Office.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(b)(4) TPDES 10383-001 PERMIT		
Description:	Failure to properly dispose of screenings from the bar screen. Screenings were being held on the drying plate and not transferred to the dumpster in a manner that would reduce vector attraction and control odors.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(i) TPDES 10383-001 PERMIT		
Description:	Failure to properly maintain the polishing ponds. During the investigation the banks of the ponds were covered with high vegetation and a few small trees. Pond embankments must be kept free of vegetation that may jeopardize the structural integrity of the pond liner or hinder the treatment process. In addition, the ponds must be kept clear of vegetation such as cattails and the water level maintained to a depth of 3 - 5 feet.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) TPDES 10383-001 PERMIT		
Description:	Failure to properly maintain the Imhoff tanks. The DFW Region acknowledges the efforts made on the part of the City to restore the Imhoff tanks to operating condition; however, a thick layer of scum and rags were observed on both Imhoff tanks.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.7(e)		
Description:	Failure to provide an all-weather access road to the WWTF. Many areas of the access road are dirt and heavily rutted. This road must be passable during heavy rainfall events and the driving surface situated above the 100-year flood plain.		

6	Date: 4/30/2008 (690679)	CN600646749	
	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		
7	Date: 7/31/2008 (711524)	CN600646749	
	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		
8	Date: 8/31/2008 (711525)	CN600646749	
	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		
9	Date: 9/30/2008 (728050)	CN600646749	
	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		
10	Date: 3/31/2009 (768897)	CN600646749	
	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		
11	Date: 4/30/2009 (768898)	CN600646749	
	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		
12	Date: 5/31/2009 (806451)	CN600646749	
	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		
13	Date: 6/30/2009 (806452)	CN600646749	
	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		
14	Date: 7/31/2009 (806453)	CN600646749	
	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		
15	Date: 8/31/2009 (806454)	CN600646749	
	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		
16	Date: 1/31/2010 (938238)	CN600646749	
	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		
17	Date: 2/28/2010 (831509)	CN600646749	
	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		
18	Date: 3/31/2010 (831510)	CN600646749	
	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		
19	Date: 5/31/2010 (846464)	CN600646749	
	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		

26 Date: 5/31/2011 (952856)
 Self Report? YES
 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

27 Date: 7/19/2011 (948214)
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

28 Date: 8/31/2011 (965558)
 Self Report? YES
 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

CN600646749
 Classification: Moderate

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF WOLFE CITY;
RN102896255**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-0044-MWD-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Wolfe City ("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, represented by Brad Castleberry of the law firm Lloyd Gosselink Rochelle & Townsend, P.C., presented this 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, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this 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 adjacent to Oyster Creek, approximately 0.3 mile east of State Highway 34 and 0.5 mile south of Wolfe City in Hunt 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 an onsite compliance investigation conducted from February 24, 2011 through March 8, 2011, and a record review investigation conducted on October 17 and 18, 2011, an investigator documented that Respondent:
 - a. Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, functioning high level alarms were not installed at three of the Facility's lift stations; and
 - b. Failed to submit a non-compliance notification to the Executive Director when a permit limit is exceeded by more than 40%. Specifically, five-day biochemical oxygen demand and total suspended solids exceeded the Permit limits by more than 40% during the monitoring periods ending March 31, 2010 and July 31, 2010 and non-compliance notifications were not submitted to the Executive Director.

3. During a record review investigation conducted on November 18, 2011, the TCEQ Enforcement Division documented that Respondent:
 - a. Failed to comply with permitted effluent limits, as shown in the table below. Specifically, Respondent exceeded the effluent limit for 5-day biochemical oxygen demand in October 2010, January 2011, March 2011, and May 2011, and exceeded the effluent limit for pH in January 2011;
 - b. Failed to comply with permitted effluent limits, as shown in the effluent violation table below. Specifically, Respondent exceeded the effluent limit for 5-day biochemical oxygen demand and *Escherichia coli* in August 2011; and
 - c. Failed to submit the annual sludge report for the monitoring period ending July 31, 2011 by September 30, 2011.

EFFLUENT VIOLATION TABLE			
Months	BOD ₅ Daily Avg. Conc.	<i>Escherichia coli</i> Single Grab	pH
	Limit = 30 mg/L	Limit = 394 CFU	Min = 6.0 s.u.
October 2010	36	c	c
January 2011	39.15	c	2.9
March 2011	37.2	c	c
May 2011	32.3	c	c
August 2011	37.4	3200	c

mg/L = milligrams per liter Conc. = concentration
c = compliant min. = minimum
s.u. = standard units
BOD₅ = five-day biochemical oxygen demand
CFU = colony forming units per 100 milliliters

4. The Executive Director recognizes that Respondent installed high level alarms at three of the Facility's lift stations by December 23, 2013. (Conclusion of Law No. 2)

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 Finding of Fact No. 2.a., Respondent failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010383001, Operational Requirements No. 1.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to submit a non-compliance notification to the Executive Director when a permit limit is exceeded by more than 40%, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010383001, Monitoring and Reporting Requirements No. 7(c).
4. As evidenced by Finding of Fact No. 3.a., 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. WQ0010383001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3.
5. As evidenced by Finding of Fact No. 3.b., 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. WQ0010383001, Effluent Limitations and Monitoring Requirements No. 1.

6. As evidenced by Finding of Fact No. 3.c., Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2011 by September 30, 2011, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010383001, Sludge Provisions.
7. 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.
8. An administrative penalty in the amount of twenty-nine thousand five hundred seventy-five dollars (\$29,575.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, twenty-nine thousand five hundred seventy-five dollars (\$29,575.00) 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 Order shall be discharged upon full compliance with all the terms and conditions of this 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 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 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. 8 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from 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. 8. The amount of twenty-nine thousand five hundred seventy-five dollars (\$29,575.00) of the assessed administrative penalty is conditionally offset based on Respondent's implementation and completion of a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. 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 Order:
 - i. Update operational guidance and conduct employee training to ensure all non-compliance notification requirements and self-reporting requirements are properly accomplished, including the timely submittal of the annual sludge reports, in accordance with TPDES Permit No. WQ0010383001, Monitoring and Reporting Requirements No. 7(c) and Sludge Provisions (Conclusions of Law Nos. 3 and 6); and
 - ii. Submit the annual sludge report for the monitoring period ending July 31, 2011 (Conclusion of Law No. 6) to:

Compliance Monitoring Section
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3088

- b. Within 45 days after the effective date of this Order submit written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii.
- c. Within 90 days after the effective date of this Order submit written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with the permitted effluent limitations of TPDES Permit No. WQ0010383001, 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 (Conclusions of Law Nos. 4 and 5)
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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 certification 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:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.
8. This 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 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. 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 Order.
9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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 Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

May 29, 2015
Date

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

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

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

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


Signature - The Honorable Barbara Woodruff, Mayor
City of Wolfe City
P.O. Box 106
Wolfe City, Texas 75496

3/30/15
Date

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

Attachment A
Docket Number: 2012-0044-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Wolfe City
Penalty Amount:	Twenty-Nine Thousand Five Hundred Seventy-Five Dollars (\$29,575)
SEP Offset Amount:	Twenty-Nine Thousand Five Hundred Seventy-Five Dollars (\$29,575)
Type of SEP:	Compliance SEP
Project Name:	<i>Installation of Aerators in Lagoon One</i>
Location of SEP:	Hunt 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 Respondent’s wastewater treatment facility. Respondent shall purchase and install three aerators in Lagoon One at the wastewater treatment facility located adjacent to Oyster Creek approximately 0.3 mile east of State Highway 34 and 0.5 mile south of Wolfe City in Hunt County, Texas. Specifically, the SEP Offset Amount shall be used for materials, supplies, equipment, and contract labor for one or more of the following: aerators, moorings, electrical installation and hookup (the “Project”). Respondent shall 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 is performing the Compliance SEP solely as part of the terms of settlement in the 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
3hp Aqua Jet Surface aerators	3	\$6,300	Each	\$18,900
Electrical motor cable	1	\$1,500	Each	\$1,500
Motor starters	3	\$700	Each	\$2,100
Safety switch	1	\$291.65	Each	\$291.65
Stainless steel cable for mooring	1	\$2,180	Each	\$2,180
Stainless steel clamps for mooring	1	268.32	Set	\$268.32
Mooring posts and sets	8	\$225	Each	\$1,800
2" conduit	500	\$0.66	Foot	\$330.50
2" conduit fittings	1	\$220	Set	\$220
Electrical junction boxes	1	\$160	Set	\$160
Post-setting labor	1	\$2,100	Each	\$2,100
Conduit installation labor	1	\$1,840	Each	\$1,840
Aerator installation labor	1	\$2,520	Each	\$2,520
Electrical installation & hookup	1	\$4,250	Each	\$4,250
Total				\$38,460.47

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 after the effective date of this Agreed Order, Respondent shall submit a Progress Report detailing the progress made and all actions completed on the Project during the previous 30-day period. In 90 days, Respondent shall submit a Final Report to the TCEQ containing detailed information on all actions completed on the Project 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 photographs of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project;
6. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
7. Any additional information demonstrating compliance with this Attachment A.

C. Address

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

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-31087

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. Recognition

Respondent may not seek recognition for this project 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.