

City of Whiteface
RN101917474
Docket No. 2012-2596-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MWD

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

approximately 2,500 feet northeast of the intersection of State Highway 114 and Farm-to-Market Road 1780, north of the City of Whiteface, Cochran 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: November 20, 2015**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$25,262**Total Paid to General Revenue:** \$142**Total Due to General Revenue:** \$4,970

35 monthly payments of \$142 each

Supplemental Environmental Project**("SEP") Conditional Offset:** \$20,150Name of SEP: *Wastewater Treatment Facility Improvements (Compliance SEP)***Compliance History Classifications:**

Person/CN – Satisfactory

Site/RN – Satisfactory

Major Source: No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** September 2011 (PCW 1); September 2002 (PCW 2)

City of Whiteface

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Investigation Information

Complaint Date(s): None

Date(s) of Investigation: May 3, 2012; November 12, 2012

Date(s) of NOV(s): May 25, 2015

Date(s) of NOE(s): November 19, 2012

Violation Information

1. Failed to properly operate and maintain all facilities and systems of treatment and control [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Operational Requirements No. 1 and Special Provisions No. 3].
2. Failed to implement, no later than 30 days after approval, the September 18, 2008 Groundwater Quality Assessment Plan in accordance with all schedules [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 10.g.].
3. Failed to comply with permitted effluent limitations [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. WQ0010314001 Effluent Limitations and Monitoring Requirements Section A].
4. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(1) and (5), and TCEQ Permit No. WQ0010314001 Operational Requirements No. 1].
5. Failed to submit a closure plan for review and approval for the abandoned Imhoff tank [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Operational Requirements No. 3.b].
6. Failed to provide written notice to the TCEQ Regional Office at least 45 days prior to operation of the final phase [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 6].
7. Failed to submit certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization of the facultative lagoon [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 9].

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

1. Submitted a properly completed closure plan for review and approval for the abandoned Imhoff tank as of January 22, 2013 (Violation No. 5);
2. Submitted a copy of the written notification to the Lubbock Regional Office on January 22, 2013 (Violation No. 6); and
3. Submitted a certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria for a facultative lagoon as of January 4, 2013 (Violation No. 7).

Technical Requirements:

1. Within 30 days, begin sampling each monitoring well once every six months, according to the September 18, 2008 Groundwater Quality Assessment Plan (Violation No. 2).
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.

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3. Within 60 days:
 - a. Remove the woody vegetation around the facultative lagoon (Violation No. 1); and
 - b. Install a proper intruder-resistant fence (Violation No. 4).
4. Within 75 days, submit written certification to demonstrate compliance with Technical Requirement Nos. 3.a. and 3.b.
5. Within 90 days, submit written certification to demonstrate compliance with the effluent limits of TCEQ Permit No. WQ0010314001, including specific corrective actions that were implemented at the Facility to achieve compliance, demonstrating at least three consecutive months of compliance with all permitted effluent limitations (Violation No. 3).

Litigation Information

Date Petition(s) Filed: February 17, 2015 (EDPRP); March 18, 2015 (EDFARP)
Date Answer Filed: March 24, 2015
SOAH Referral Date: May 15, 2015
Hearing Date(s):
Preliminary Hearing: July 2, 2015 (waived)
Evidentiary Hearing: October 29, 2015(scheduled)
Settlement Date: September 22, 2015

Contact Information

TCEQ Attorneys: Jacquelyn Boutwell, 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: Jennifer Graves, Enforcement Division, (956) 430-6023
TCEQ Regional Contact: Gary Shipp, Lubbock Regional Office, 50th Street, Ste. 100, Lubbock, Texas 79414-3426
Respondent Contact: The Honorable Jack Seay, Mayor, City of Whiteface, P.O. Box 248, Whiteface, Texas 79379
Respondent's Attorney: Audie Sciumbato, Ph.D., UNDERWOOD LAW FIRM, P.C., 145 W. 3rd St., P.O. Box 1655, Hereford, Texas 79045

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Attachment A
Docket Number: 2012-2596-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Whiteface
Penalty Amount:	Twenty-Five Thousand Two Hundred Sixty-Two Dollars (\$25,262)
SEP Offset Amount:	Twenty Thousand One Hundred Fifty Dollars (\$20,150)
Type of SEP:	Compliance SEP
Project Name:	<i>Wastewater Treatment Facility Improvements</i>
Location of SEP:	Cochran 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 repair and upgrade the security fence surrounding the wastewater treatment facility; remove existing vegetation and treat the area to suppress future growth; reinforce embankment of facultative lagoon with rip rap; and prepare a closure plan for the wastewater treatment facility Imhoff tank. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: fencing repair, vegetation removal and control, rip rap, and all contract labor (the “Project”). Respondent shall solicit bids from qualified contractors to provide upgrades to the wastewater treatment facility. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

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

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has 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
Fencing material and contract labor	1	\$1,500	Contract	\$1,500
Vegetation removal and chemical control measures	1	\$1,100	Contract	\$1,100
Rip Rap on facultative lagoon	1	\$17,550	Contract	\$17,550
Subtotal				\$20,150
Payment to General Revenue Fund	1		Balance	\$5,112
Total				\$25,262

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 90 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

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

B. Final Report

Within 90 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Proof of publication of invitation for bids (publication must include the enforcement statement, as stated in Section 6, Publicity, if applicable);
4. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project;
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.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	19-Nov-2012	Screening	3-Dec-2012	EPA Due	
	PCW	30-Aug-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Whiteface
Reg. Ent. Ref. No.	RN101917474
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	45727	No. of Violations	4
Docket No.	2012-2596-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,750
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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	5.0% Enhancement Subtotals 2, 3, & 7	\$787

Notes: Enhancement for one NOV with same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$1,536	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$15,710		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,537
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			

Final Penalty Amount \$16,537

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,537
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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.			

PAYABLE PENALTY	\$16,537
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Screening Date	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45727			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45727			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010314001 Operational Requirements No. 1 and Special Provisions No. 3

Violation Description Failed to properly operate and maintain all facilities and systems of treatment and control, as documented during a record review conducted on November 12, 2012. Specifically, significant amounts of woody vegetation (trees) were noted within the berm of the facultative lagoon, near the static water line.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	x
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the record review date (November 12, 2012) to the screening date (December 3, 2012).

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	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 Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
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				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)	\$5,000	3-May-2012	27-Apr-2014	1.98	\$496	n/a	\$496

Notes for DELAYED costs: Estimated cost to remove the woody vegetation (trees) around the facultative lagoon. Date required is the investigation date. Final date is the estimated 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	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45727			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 10.g

Violation Description

Failed to implement, no later than 30 days of approval, the September 18, 2008, Groundwater Quality Assessment Plan in accordance with all schedules, as documented during a record review conducted on November 12, 2012. Specifically, the Respondent failed to sample each monitoring well once every six months since the last complete sampling event conducted on March 24, 2010.

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text" value="x"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Three semiannual events are recommended for the missed sampling events which were due to have been conducted by Spetember 24, 2011, March 24, 2012, and September 24, 2012.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
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	\$250	12-Nov-2012	28-Mar-2014	1.37	\$17	n/a	\$17
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$460	12-Nov-2012	28-Mar-2014	1.37	\$32	n/a	\$32

Notes for DELAYED costs
 Estimated costs to update procedures and train Facility personnel to ensure that the permit requirements are met, and to sample the wells according to the schedule in the Groundwater Quality Assessment Plan (\$115 per well), respectively. Date required is the record review date. Final date is the estimated 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

See economic benefit on Violation No. 5 of accompanying PCW.

Approx. Cost of Compliance \$710

TOTAL \$49

Screening Date	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45727			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0010314001 Effluent Limitations and Monitoring Requirements Section A

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on November 12, 2012. Specifically, the pH values exceeded the permitted limit of 9.0 Standard Units ("SU") for the following months: October 2011 (9.23 SU) and April 2012 (9.19 SU).

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two quarterly events are 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 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 Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
Media Water Quality
Violation No. 3

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 on Violation No. 4 of the accompanying PCW.

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 3-Dec-2012	Docket No. 2012-2596-MWD-E	PCW
Respondent City of Whiteface		<i>Policy Revision 3 (September 2011)</i>
Case ID No. 45727		<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No. RN101917474		
Media [Statute] Water Quality		
Enf. Coordinator Lanae Foard		

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5), and TCEQ Permit No. WQ0010314001 Operational Requirements No. 1

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, as documented during a record review conducted on November 12, 2012. Specifically, a three-strand barbed wire fence surrounds the wastewater ponds and does not meet the requirements of an intruder resistant fence.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="3.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended from the record review date (November 12, 2012) to the screening date (December 3, 2012).

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="checkbox"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	3-May-2012	27-Apr-2014	1.98	\$992	n/a	\$992

Notes for DELAYED costs

Estimated cost to install a proper intruder resistant fence. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$10,000	TOTAL	\$992
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Nov-2012		
	PCW	15-Oct-2014	Screening	3-Dec-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Whiteface		
Reg. Ent. Ref. No.	RN101917474		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45727	No. of Violations	5
Docket No.	2012-2596-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$8,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$425**

Notes: Enhancement for one NOV with same/similar violations.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$200**

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

Total EB Amounts: \$5,275
 Approx. Cost of Compliance: \$15,350
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,725**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$8,725**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,725**

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

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$8,725**

Screening Date 3-Dec-2012

Docket No. 2012-2596-MWD-E

PCW

Respondent City of Whiteface

Policy Revision 2 (September 2002)

Case ID No. 45727

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917474

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

Screening Date	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45727			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code § 305.125(1) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010314001 Operational Requirements No. 3.b

Violation Description
 Failed to submit a closure plan for review and approval for the abandoned Imhoff tank, as documented during a record review conducted on November 12, 2012. Specifically, the Imhoff tank has been abandoned since the facultative lagoon was put on-line in April 2009.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
 100% of the permit requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Notes
 The Respondent achieved compliance on January 22, 2013.

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 Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
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)	\$2,000	1-Jan-2009	22-Jan-2013	4.06	\$406	n/a	\$406

Notes for DELAYED costs

Estimated cost to submit a closure plan for the Imhoff tank. The date required is 90 days before the date the Facility began operating in the final phase (April 1, 2009). The final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$406

Screening Date	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45727			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 6

Violation Description

Failed to provide written notice to the TCEQ Regional Office at least 45 days prior to operation of the final phase. Specifically, written notice was provided to the Applications Review and Processing Team on December 16, 2008, but was not provided to the TCEQ Lubbock Regional Office.

Base Penalty

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

OR

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="5%"/>

Matrix Notes

At least 50% of the permit requirement was met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
Media Violation No. Water Quality
 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				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	15-Feb-2009	22-Jan-2013	3.94	\$10	n/a	\$10

Notes for DELAYED costs Estimated cost to submit a copy of the written notification of operation. The date required is 45 days before the date the Facility began operating in the final phase (April 1, 2009). The final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$50

TOTAL \$10

Screening Date	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45727			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 9

Violation Description

Failed to submit certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization of the facultative lagoon.

Base Penalty

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

OR

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

>> **Programmatic Matrix**

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

Matrix Notes

100% of the permit requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Notes

The Respondent came into compliance on January 4, 2013.

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 Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$1,000	1-Apr-2009	4-Jan-2013	3.76	\$188	n/a	\$188

Notes for DELAYED costs Estimated cost to submit a liner certification by a Texas Licensed Professional Engineer. Date required is the date the Facility began operating in the final phase. 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	\$1,000	TOTAL	\$188
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Screening Date	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45727			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0010314001 Effluent Limitations and Monitoring Requirements Section A

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on November 12, 2012. Specifically, the pH values exceeded the permitted limit of 9.0 Standard Units ("SU") for the following months: June 2011 (9.32 SU), July 2011 (9.05 SU), August 2011 (9.17 SU).

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly 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 Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
Media Water Quality
Violation No. 4

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	30-Jun-2011	18-Jul-2015	4.05	\$2,026	n/a	\$2,026

Notes for DELAYED costs
 Estimated cost to evaluate the cause of the non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the estimated 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	3-Dec-2012	Docket No.	2012-2596-MWD-E	PCW
Respondent	City of Whiteface	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	45727	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101917474			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			
Violation Number	5			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 10.g			
Violation Description	Failed to implement, no later than 30 days of approval, the September 18, 2008, Groundwater Quality Assessment Plan in accordance with all schedules, as documented during a record review conducted on November 12, 2012. Specifically, the Respondent failed to sample each monitoring well once every six months since the last complete sampling event conducted on March 24, 2010.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
		Major	Moderate		Minor
	Release				
	Actual				
	Potential	x		25%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events: 2 518 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$5,000

Two semiannual events are recommended for the missed sampling events which were due by September 24, 2010, and March 24, 2011.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$2,645 Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent City of Whiteface
Case ID No. 45727
Reg. Ent. Reference No. RN101917474
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

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)	\$2,300	24-Sep-2010	24-Oct-2012	3.00	\$345	\$2,300	\$2,645

Notes for AVOIDED costs

Estimated avoided cost to sample the wells according to the schedule in the Groundwater Quality Assessment Plan (\$115 per well). Date required is six months from the date of the last sampling event (March 24, 2010). Final date is the date of the record review date.

Approx. Cost of Compliance

\$2,300

TOTAL

\$2,645

The TCEQ is committed to accessibility.

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



Compliance History Report

PUBLISHED Compliance History Report for CN600678445, RN101917474, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600678445, City of Whiteface **Classification:** SATISFACTORY **Rating:** 6.75

Regulated Entity: RN101917474, City of Whiteface Wastewater **Classification:** SATISFACTORY **Rating:** 6.75

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: Approx. 2,500 feet northeast of the intersection of State Highway 114 and Farm-to-Market Road 1780, north of the City of Whiteface, COCHRAN COUNTY, TX

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s): **WASTEWATER PERMIT** WQ0010314001
WASTEWATER LICENSING LICENSE WQ0010314001

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: December 11, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 11, 2007 to December 11, 2012

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

Name: Lanae Foard

Phone: (512) 239-2554

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 January 24, 2011 (892846)

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

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

1	Date:	(1002724)	CN600678445
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirement 10.c. PERMIT Operational Requirement 3.b. PERMIT		
Description:	Failure to submit a closure plan and provide written notification of closure activity for the abandoned Imhoff tank.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring Requirement 5. PERMIT Operational Requirement 1. PERMIT		
Description:	Failure to provide a functional flow meter, with annual calibration, to measure influent flow to the treatment facility.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Conditions of the Permit. A. PERMIT		
Description:	Failure to meet effluent quality limitations regarding Biochemical Oxygen Demand (BOD), as specified by Permit No. WQ0010314001.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirement 1. PERMIT		
Description:	Failure to maintain the facultative lagoon in regards to vegetation control.		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Special Provisions No. 10.g PERMIT		
Description:	Failure to conduct groundwater monitoring, as required by Special Provision 10.g. of Permit No. WQ0010314001.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Special Provisions No. 6 PERMIT		
Description:	Failure to provide written notice to the TCEQ Region 2 Office and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to operation of the final phase.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Special Provisions No. 9 PERMIT		
Description:	Failure to provide a liner certification document for the facultative lagoon.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Eff. Lim. & Mon. Req. Section A PERMIT		
Description:	Failure to meet effluent quality limitations regarding pH, as specified by Permit No. WQ0010314001.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 217, SubChapter M 217.328(c)		
Description:	Failure to provide adequate facility access control surrounding the wastewater treatment ponds, as required by Chapter 217.328(c).		

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 WHITEFACE;
RN101917474**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-2596-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 Whiteface ("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 Audie Sciumbato, Ph.D., of the law firm UNDERWOOD LAW FIRM, 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, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

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 approximately 2,500 feet northeast of the intersection of State Highway 114 and Farm-to-Market Road 1780, north of the City of Whiteface, in Cochran 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 investigation conducted on May 3, 2012, and a record review conducted on November 12, 2012, an investigator documented that Respondent:
 - a. Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, significant amounts of woody vegetation (trees) were noted within the berm of the facultative lagoon, near the static water line;
 - b. Failed to implement, no later than 30 days after approval, the September 18, 2008 Groundwater Quality Assessment Plan in accordance with all schedules. Specifically, Respondent failed to sample each monitoring well once every six months since the last complete sampling event conducted on March 24, 2010;

- c. Failed to comply with permitted effluent limitations. Specifically, the pH values exceeded the permitted limit of 9.0 Standard Units ("SU") for the following months: June 2011 (9.32 SU), July 2011 (9.05 SU), August 2011 (9.17 SU), October 2011 (9.23 SU) and April 2012 (9.19 SU);
 - d. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, a three-strand barbed wire fence surrounds the wastewater ponds and does not meet the requirements of an intruder resistant fence;
 - e. Failed to submit a closure plan for review and approval for the abandoned Imhoff tank. Specifically, the Imhoff tank has been abandoned since the facultative lagoon was put on-line in April 2009;
 - f. Failed to provide written notice to the TCEQ Regional Office at least 45 days prior to operation of the final phase. Specifically, written notice was provided to the Applications Review and Processing Team on December 16, 2008, but was not provided to the TCEQ Lubbock Regional Office; and
 - g. Failed to submit certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization of the facultative lagoon.
3. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
- a. Submitted a properly completed closure plan for review and approval for the abandoned Imhoff tank as of January 22, 2013 (Conclusion of Law No. 6);
 - b. Submitted a copy of the written notification to the Lubbock Regional Office on January 22, 2013 (Conclusion of Law No. 7); and
 - c. Submitted a certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria for a facultative lagoon as of January 4, 2013 (Conclusion of Law No. 8).

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to of 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 TCEQ Permit No. WQ0010314001 Operational Requirements No. 1 and Special Provisions No. 3.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to implement, no later than 30 days of approval, the September 18, 2008, Groundwater Quality Assessment Plan in accordance with all schedules, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 10.g.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0010314001 Effluent Limitations and Monitoring Requirements Section A.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained,

in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), and TCEQ Permit No. WQ0010314001 Operational Requirements No. 1.

6. As evidenced by Finding of Fact No. 2.e., Respondent failed to submit a closure plan for review and approval for the abandoned Imhoff tank, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Operational Requirements No. 3.b.
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to provide written notice to the TCEQ Regional Office at least 45 days prior to operation of the final phase, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 6.
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to submit certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization of the facultative lagoon, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010314001 Special Provisions No. 9.
9. 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.
10. An administrative penalty in the amount of twenty-five thousand two hundred sixty-two dollars (\$25,262.00) 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 thousand one hundred fifty dollars (\$20,150.00) of the 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 penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes any payment schedule and the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

Respondent paid one hundred forty-two dollars (\$142.00) of the penalty. The remaining amount of four thousand nine hundred seventy dollars (\$4,970.00) shall be paid in thirty-five (35) monthly payments of one hundred forty-two dollars (\$142.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. 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 penalty shall become immediately due and payable without demand or notice. Respondent's failure to meet the payment schedule of this Order and/or 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 demand payment of all or part of the conditionally offset 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. 10 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. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: City of Whiteface, Docket No. 2012-2596-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. Respondent shall implement and complete a SEP as set forth in Conclusion of Law No. 10. The amount of twenty thousand one hundred fifty dollars (\$20,150.00) of the assessed administrative penalty is conditionally offset based on Respondent's implementation and completion 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, begin sampling each monitoring well once every six months, according to the September 18, 2008 Groundwater Quality Assessment Plan (Conclusion of Law No. 3).
 - b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.f., to demonstrate compliance with Ordering Provision No. 3.a.
 - c. Within 60 days after the effective date of this Order:
 - i. Remove the woody vegetation around the facultative lagoon (Conclusion of Law No. 2); and
 - ii. Install a proper intruder-resistant fence (Conclusion of Law No. 5).
 - d. Within 75 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.f., to demonstrate compliance with Ordering Provisions Nos. 3.c.i. and 3.c.ii.
 - e. Within 90 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.f., to demonstrate compliance with the effluent limits of TCEQ Permit No. WQ0010314001, including specific corrective actions that were implemented at the Facility to achieve compliance, demonstrating at least three consecutive months of compliance with all permitted effluent limitations (Conclusion of Law No. 4).
 - f. 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 certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Water Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3426

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

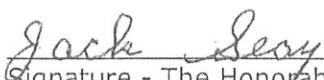
January 14, 2016
Date

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 Jack Seay, Mayor
City of Whiteface
P.O. Box 248
Whiteface, Texas 79379

9-22-15
Date

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

Attachment A
Docket Number: 2012-2596-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Whiteface
Penalty Amount:	Twenty-Five Thousand Two Hundred Sixty-Two Dollars (\$25,262)
SEP Offset Amount:	Twenty Thousand One Hundred Fifty Dollars (\$20,150)
Type of SEP:	Compliance SEP
Project Name:	<i>Wastewater Treatment Facility Improvements</i>
Location of SEP:	Cochran 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 repair and upgrade the security fence surrounding the wastewater treatment facility; remove existing vegetation and treat the area to suppress future growth; reinforce embankment of facultative lagoon with rip rap; and prepare a closure plan for the wastewater treatment facility Imhoff tank. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: fencing repair, vegetation removal and control, rip rap, and all contract labor (the “Project”). Respondent shall solicit bids from qualified contractors to provide upgrades to the wastewater treatment facility. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

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

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has 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
Fencing material and contract labor	1	\$1,500	Contract	\$1,500
Vegetation removal and chemical control measures	1	\$1,100	Contract	\$1,100
Rip Rap on facultative lagoon	1	\$17,550	Contract	\$17,550
Subtotal				\$20,150
Payment to General Revenue Fund	1		Balance	\$5,112
Total				\$25,262

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 90 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

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

B. Final Report

Within 90 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Proof of publication of invitation for bids (publication must include the enforcement statement, as stated in Section 6, Publicity, if applicable);
4. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project;
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.