

**Executive Summary – Enforcement Matter – Case No. 51200**

**City of Yorktown**

**RN103025805**

**Docket No. 2015-1322-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Yorktown WWTP, located at 500 South Riedel Street, approximately 0.7 mile southeast of the intersection of State Highway 72 and State Highway 119 at the end of Eckhardt Street, Yorktown, Dewitt County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 8, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$19,025

**Amount Deferred for Expedited Settlement:** \$3,805

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$15,220

Name of SEP: Texas Association of Resource Conservation and Development

Areas, Inc. (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Unsatisfactory

Site/RN - Unsatisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 51200**  
**City of Yorktown**  
**RN103025805**  
**Docket No. 2015-1322-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** June 18, 2015

**Date(s) of NOE(s):** August 14, 2015

***Violation Information***

1. Failed to employ or contract one or more licensed wastewater treatment facility operators holding the appropriate level of license to operate a wastewater treatment facility a minimum of five days per week. Specifically, an unlicensed individual performed duties as the wastewater treatment plant operator while the chief operator was on medical leave [30 TEX. ADMIN. CODE §§ 30.350(d) and (j) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010323001, Other Requirements No. 1].

2. Failed to ensure that the Facility and all of its systems of collection, treatment and disposal are properly operated and maintained. Specifically, one of the two clarifiers was not operational because the pumps were not operational. In addition, the chlorine contact chamber contained a dense sludge blanket and there was more than a trace of floating debris on the surface [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0010323001, Operational Requirements No. 1].

3. Failed to report in writing any effluent violation which deviates from the permitted effluent limitation by more than 40% to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance. Specifically, the Respondent did not submit noncompliance notifications for the exceedances of permitted effluent limitations by more than 40% for the months of July 2014 and August 2014 [30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0010323001, Monitoring Requirements No. 7.c.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. On August 3, 2015, the chief wastewater treatment facility operator returned to work full-time; and
- b. By September 3, 2015, removed and properly disposed of the sludge and floating debris from the chlorine contact chamber, and updated the operations manual to ensure noncompliance notifications are submitted within five working days of becoming aware of the noncompliance.

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**RN103025805**  
**Docket No. 2015-1322-MWD-E**

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
  - a. Within 30 days, repair or replace the clarifier pumps and ensure both clarifiers are operational; and
  - b. Within 45 days, submit written certification to demonstrate compliance with a.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565  
**Respondent:** The Honorable Rene Hernandez, Mayor, City of Yorktown, P.O. Box 605, Yorktown, Texas 78164  
**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2015-1322-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Yorktown</b>
<b>Penalty Amount:</b>	<b>Fifteen Thousand Two Hundred Twenty Dollars (\$15,220)</b>
<b>SEP Offset Amount:</b>	<b>Fifteen Thousand Two Hundred Twenty Dollars (\$15,220)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc.</b>
<b>Project Name:</b>	<b><i>Tire Collection Events and Cleanup of Abandoned Tire Sites</i></b>
<b>Location of SEP:</b>	<b>DeWitt County: San Antonio River Basin, Gulf Coast Aquifer</b>

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

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Tire Collection Events and Cleanup of Abandoned Tire Sites* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with local city and county government officials and private entities (“Partner Entities”) to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling (“Collection Events”), or to clean sites where tires have been disposed of illegally (“Site Cleanups”).

Texas RC&D shall ensure that collected tires, debris, and waste are properly transported to and disposed at an authorized disposal site, and if a licensed hauler is needed for tires or other regulated waste collected from sites, Texas RC&D shall ensure that only properly licensed haulers are used for transport and disposal of tires and regulated wastes. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

City of Yorktown  
Agreed Order - Attachment A

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

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

b. Environmental Benefit

This SEP will provide an environmental benefit by providing communities with a free and convenient means for safe and proper disposal of tires and by reducing the dangers and health threats associated with illegally dumped tires.

The health risks associated with illegal dumping are significant. Areas used for illegal tire dumping may be easily accessible to people, especially children, who are vulnerable to the physical hazards posed by abandoned tires. Rodents, insects, and other vermin attracted to dump sites may also pose health risks. Tire dump sites which contain scrap tires pose an ideal breeding ground for mosquitoes, which can breed 100 times faster in the warm, stagnant water standing in scrap tire casings. Severe illnesses, including West Nile Virus, have been attributed to disease-carrying mosquitoes. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of air, surface water, ground water, and soil. In addition, neighborhoods have been evacuated and property damage has been significant due to tire dump sites that caught fire. Illegal tire dumping can also impact drainage of runoff, making areas more susceptible to flooding when wastes block waterways. Open burning at tire dump sites can cause forest fires and erosion as fires burn away trees and undergrowth. Tire dumping has a negative impact on trees and wildlife, and runoff from tire dumpsites may contain chemicals that can contaminate wells and surface water used for drinking.

c. Minimum Expenditure

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

**2. Performance Schedule**

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

Texas Association of RC&D Areas, Inc.  
Attn.: Jerry Pearce, Executive Director  
P.O. Box 2533  
Victoria, Texas 77902

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

City of Yorktown  
Agreed Order - Attachment A

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

**5. Publicity**

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

**6. Recognition**

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

**7. Other SEPs by TCEQ or Other Agencies**

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



# Penalty Calculation Worksheet (PCW)

<b>DATES</b>	<b>Assigned</b>	17-Aug-2015	<b>Screening</b>	28-Aug-2015	<b>EPA Due</b>	
	<b>PCW</b>	12-Feb-2016				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Yorktown
<b>Reg. Ent. Ref. No.</b>	RN103025805
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	3
<b>Enf./Case ID No.</b>	51200	<b>Order Type</b>	1660
<b>Docket No.</b>	2015-1322-MWD-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Cheryl Thompson
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**  
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.  
**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for four months of self-reported effluent violations, two orders without denial of liability, one order with denial of liability, and an unsatisfactory performer classification.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**   
 \*Capped at the Total EB \$ Amount

Total EB Amounts	\$4,962
Estimated Cost of Compliance	\$40,300

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

**Screening Date** 28-Aug-2015

**Docket No.** 2015-1322-MWD-E

**PCW**

**Respondent** City of Yorktown

Policy Revision 4 (April 2014)

**Case ID No.** 51200

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN103025805

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	4	8%
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	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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)** 78%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Unsatisfactory Performer

**Adjustment Percentage (Subtotal 7)** 10%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for four months of self-reported effluent violations, two orders without denial of liability, one order with denial of liability, and an unsatisfactory performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 88%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 88%

Screening Date 28-Aug-2015

Docket No. 2015-1322-MWD-E

PCW

Respondent City of Yorktown

Policy Revision 4 (April 2014)

Case ID No. 51200

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103025805

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d) and (j) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010323001, Other Requirements No. 1

Violation Description Failed to employ or contract one or more licensed wastewater treatment facility operators holding the appropriate level of license to operate a wastewater treatment facility a minimum of five days per week, as documented during an investigation conducted on June 18, 2015. Specifically, an unlicensed individual performed duties as the wastewater treatment plant operator while the chief operator was on medical leave.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 46

Table for frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$7,500

Two monthly events are recommended from June 18, 2015 (investigation date) to August 3, 2015 (compliance date).

Good Faith Efforts to Comply

25.0% Reduction \$1,875

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A.

Notes The Respondent returned to compliance on August 3, 2015.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,632

Violation Final Penalty Total \$12,225

This violation Final Assessed Penalty (adjusted for limits) \$12,225

# Economic Benefit Worksheet

**Respondent** City of Yorktown  
**Case ID No.** 51200  
**Reg. Ent. Reference No.** RN103025805  
**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)			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	\$35,000	18-Jun-2015	3-Aug-2015	0.13	\$221	\$4,411
Inspection/Reporting/Sampling				0.00	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost (annual salary) to employ or contract one or more licensed wastewater treatment facility operators holding the appropriate level of license to operate a wastewater treatment facility a minimum of five days per week. Date required is the investigation date. Final date is the date the chief operator returned to work.

Approx. Cost of Compliance \$35,000

**TOTAL** \$4,632

Screening Date 28-Aug-2015

Docket No. 2015-1322-MWD-E

PCW

Respondent City of Yorktown

Policy Revision 4 (April 2014)

Case ID No. 51200

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103025805

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0010323001, Operational Requirements No. 1

Violation Description

Failed to ensure that the Facility and all of its systems of collection, treatment and disposal are properly operated and maintained, as documented during an investigation conducted on June 18, 2015. Specifically, one of the two clarifiers was not operational because the pumps were not operational. In addition, the chlorine contact chamber contained a dense sludge blanket and there was more than a trace of floating debris on the surface.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

71 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended from June 18, 2015, (investigation date) to August 28, 2015 (screening date).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$275

Violation Final Penalty Total \$2,350

This violation Final Assessed Penalty (adjusted for limits) \$2,350

# Economic Benefit Worksheet

**Respondent** City of Yorktown  
**Case ID No.** 51200  
**Reg. Ent. Reference No.** RN103025805  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment	\$4,000	18-Jun-2015	28-May-2016	0.95	\$13	\$252	\$265
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	\$1,000	18-Jun-2015	3-Sep-2015	0.21	\$11	n/a	\$11
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Equipment cost is the estimated amount to repair or replace the clarifier pumps. Date required is the investigation date, and the final date is the estimated date of compliance.

Remediation/Disposal cost is the estimated cost to remove and properly dispose of the sludge and floating debris from the chlorine contact chamber. Date required is the investigation date, and the final date is the date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$275

Screening Date 28-Aug-2015

Docket No. 2015-1322-MWD-E

PCW

Respondent City of Yorktown

Policy Revision 4 (April 2014)

Case ID No. 51200

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103025805

Media [Statute] Water Quality

Cheryl Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (9)(A) and TPDES Permit No. WQ0010323001, Monitoring Requirements No. 7.c.

Violation Description Failed to report in writing any effluent violation which deviates from the permitted effluent limitation by more than 40% to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance, as documented during an investigation conducted on June 18, 2015. Specifically, the Respondent did not submit noncompliance notifications for the exceedances of permitted effluent limitations by more than 40% for the months of July 2014 and August 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$2,500

Two single events are recommended, one event for each notification required.

Good Faith Efforts to Comply

10.0% Reduction \$250

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

Notes The Respondent achieved compliance by September 3, 2015.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$55 Violation Final Penalty Total \$4,450

This violation Final Assessed Penalty (adjusted for limits) \$4,450

# Economic Benefit Worksheet

**Respondent** City of Yorktown  
**Case ID No.** 51200  
**Reg. Ent. Reference No.** RN103025805  
**Media** Water Quality  
 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	\$250	18-Jun-2015	3-Sep-2015	0.21	\$3	n/a	\$3
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 the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished, including the submittal of noncompliance notifications. Date required is the investigation date. 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
Personnel				0.00	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	\$50	5-Aug-2014	5-Sep-2014	1.00	\$3	\$50
Other (as needed)				0.00	\$0	\$0

**Notes for AVOIDED costs**

Estimated avoided cost by failing to submit the noncompliance notifications (\$25 per noncompliance notification x 2). Date required is the date the first notification was due. Final date is the date the last notification was due.

Approx. Cost of Compliance

\$300

**TOTAL**

\$55

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 CN600306278, RN103025805, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN600306278, City of Yorktown

**Classification:** UNSATISFACTORY **Rating:** 66.14

**Regulated Entity:** RN103025805, City of Yorktown WWTP

**Classification:** UNSATISFACTORY **Rating:** 66.14

**Complexity Points:** 4

**Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** 500 SOUTH RIEDEL STREET, APPROXIMATELY 0.7 MILE SOUTHEAST OF THE INTERSECTION OF STATE HIGHWAY 72 AND STATE HIGHWAY 119 AT THE END OF ECKHARDT STREET IN YORKTOWN, DEWITT COUNTY, TEXAS

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):**

**WASTEWATER PERMIT** WQ0010323001

**WASTEWATER EPA ID** TX0054631

**WASTEWATER LICENSING LICENSE** WQ0010323001

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** August 27, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** August 27, 2010 to August 27, 2015

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

**Name:** Cheryl Thompson

**Phone:** (817) 588-5886

**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:**

- 1 Effective Date: 08/13/2011 ADMINORDER 2011-0127-MWD-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Eff. Limit. & Monit. Req. No. 1 PERMIT  
Description: Failure to comply with the permitted effluent limitations.
- 2 Effective Date: 08/02/2012 ADMINORDER 2011-1610-MWD-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Eff. limits and Monitoring Req. No. 1 PERMIT

Description: Failure to comply with permitted effluent limitations as documented by a TCEQ record review of self-reported data.

3

Effective Date: 05/24/2014 ADMINORDER 2013-0888-MWD-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Other Requirements 1. PERMIT

Description: Failed to operate the Category C facility a minimum of five days per week with a licensed chief operator holding a Category C license or higher.

Specifically, during an investigation conducted on February 20, 2013, the Yorktown WWTP personnel stated that the chief operator only visits the WWTP once per week.

Classification: Moderate

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

Rqmt Prov: Sludge Provisions Sect. III(C) PERMIT

Description: Failed to give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section of a change planned in the sewage sludge disposal practice.

Specifically, during an investigation conducted on February 20, 2013, a review of sludge trip tickets documented that sludge was hauled to Victoria Compost Facility, a Type V Municipal Solid Waste Processing Center, Registration No. 42034. The sludge disposal facility listed on the facility's permit application is Covell Gardens

Classification: Moderate

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

Rqmt Prov: Operational Requirements 1. PERMIT

Description: Failed to at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

Specifically, during an investigation conducted on February 20, 2013 investigators noted the following deficiencies: one of the three pumps in the main lift station was out of service; one of the five rotors in the oxidation ditch was non-functional; the chlorine contact chamber exhibited signs of accumulated solids including bubbling and rising

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 319, SubChapter A 319.7(a)(1)  
30 TAC Chapter 319, SubChapter A 319.7(a)(2)  
30 TAC Chapter 319, SubChapter A 319.7(a)(3)  
30 TAC Chapter 319, SubChapter A 319.7(a)(5)

Rqmt Prov: Monitoring and Reporting Req. 3.c.i-vi. PERMIT

Description: Failed to maintain records of monitoring activities to include the parameters listed in TPDES Permit No. WQ0010323-001, Monitoring and Reporting Requirements (3)(c)(i-vi).

Specifically, an investigation conducted on February 20, 2013 revealed that the facility did not record both sample and analysis times for field parameters, nor were quality control results recorded. Additionally, the identity of the individual performing the analysis was not recorded.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
30 TAC Chapter 319, SubChapter A 319.7(d)

Rqmt Prov: Monitoring and Reporting Req. 1. PERMIT

Description: Failed to submit a monthly effluent report by the 20th day of the following month for each discharge described by TPDES Permit No. WQ0010323-001.

Specifically, during an investigation conducted on February 20, 2013, investigators noted that DMRs were signed after the 20th of the month following the reporting period every month from April 2012 through December 2012.

Classification: Moderate

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

Rqmt Prov: Monitoring and Reporting Req. 7.c. PERMIT

Description: Failed to report in writing to the Regional Office and the Enforcement Division within five working day of becoming aware of any effluent violation which deviates from the permitted effluent limitation by more than 40%.

Specifically, a file record review conducted in conjunction with the February 20, 2013 investigation revealed that no noncompliance notifications were submitted in 2012 and 2013, despite the following self-reported effluent violations which deviate from the effluent limitation

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 319, SubChapter A 319.11

Rqmt Prov: Monitoring and Reporting Req. 1. PERMIT

Description: Failed to conduct effluent sampling and reporting in accordance with 30TAC §§ 319.4 - 319.12.

Specifically, during an investigation conducted on February 20, 2013 at the Yorktown WWTP, investigators documented that the facility personnel did not calibrate pH on a daily basis. Furthermore, the facility's pH buffer solutions were expired.

Classification: Moderate

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

Rqmt Prov: Operational Requirements 3.b. PERMIT

Description: Failed to give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the Facility.

Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Provisions, Sect. II F (1-17) PERMIT

Sludge Provisions, Sect. III G (1-9) PERMIT

Description: Failed to submit the annual sludge report to the TCEQ Regional Office and Enforcement Division by September 30 of each year.

Specifically, an investigation conducted on February 20, 2013 documented that the facility's 2012 sludge report was not submitted to the Enforcement Division by September 30, 2012. Additionally, a copy of the report was not submitted to the Region 14 office.

During the investigation, investigators requested a copy of the 2012 sludge report. The report was submitted

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	September 24, 2010	(874558)
Item 2	October 28, 2010	(896961)
Item 3	November 08, 2010	(888613)
Item 4	December 31, 2010	(896962)
Item 5	January 24, 2011	(909754)
Item 6	February 11, 2011	(909753)
Item 7	August 31, 2011	(959954)
Item 8	September 28, 2011	(965999)
Item 9	January 21, 2013	(1153886)
Item 10	October 11, 2013	(1135978)
Item 11	February 21, 2014	(1161210)
Item 12	November 24, 2014	(1219144)
Item 13	December 22, 2014	(1224929)
Item 14	January 26, 2015	(1231774)
Item 15	April 13, 2015	(1256189)
Item 16	May 15, 2015	(1262913)
Item 17	June 17, 2015	(1270073)

**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: 08/31/2014 (1206479)	CN600306278	
	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: 09/30/2014 (1212895)	CN600306278	
	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: 01/31/2015 (1242947) CN600306278  
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
- 4 Date: 02/28/2015 (1249303) CN600306278  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF YORKTOWN  
RN103025805**

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

**AGREED ORDER  
DOCKET NO. 2015-1322-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Yorktown ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 500 South Riedel Street, approximately 0.7 mile southeast of the intersection of State Highway 72 and State Highway 119 at the end Eckhardt Street in Yorktown, DeWitt County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 19, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nineteen Thousand Twenty-Five Dollars (\$19,025) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Thousand Eight Hundred Five Dollars (\$3,805) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Fifteen Thousand Two Hundred Twenty-Dollars (\$15,220) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. On August 3, 2015, the chief wastewater treatment facility operator returned to work full-time.
  - b. By September 3, 2015, removed and properly disposed of the sludge and floating debris from the chlorine contact chamber, and updated the operations manual to ensure noncompliance notifications are submitted within five working days of becoming aware of the noncompliance.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to employ or contract one or more licensed wastewater treatment facility operators holding the appropriate level of license to operate a wastewater treatment facility a minimum of five days per week, in violation of 30 TEX. ADMIN. CODE

§§ 30.350(d) and (j) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010323001, Other Requirements No. 1, as documented during an investigation conducted on June 18, 2015. Specifically, an unlicensed individual performed duties as the wastewater treatment plant operator while the chief operator was on medical leave.

2. Failed to ensure that the Facility and all of its systems of collection, treatment and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0010323001, Operational Requirements No. 1, as documented during an investigation conducted on June 18, 2015. Specifically, one of the two clarifiers was not operational because the pumps were not operational. In addition, the chlorine contact chamber contained a dense sludge blanket and there was more than a trace of floating debris on the surface.
3. Failed to report in writing any effluent violation which deviates from the permitted effluent limitation by more than 40% to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0010323001, Monitoring Requirements No. 7.c., as documented during an investigation conducted on June 18, 2015. Specifically, the Respondent did not submit noncompliance notifications for the exceedances of permitted effluent limitations by more than 40% for the months of July 2014 and August 2014.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Yorktown, Docket No. 2015-1322-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Fifteen Thousand Two Hundred Twenty Dollars (\$15,220) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, repair or replace the clarifier pumps and ensure both clarifiers are operational.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. 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

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
For the Executive Director

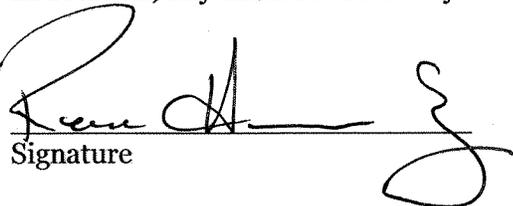
6/29/16  
\_\_\_\_\_  
Date

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

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

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

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

  
\_\_\_\_\_  
Signature

2/29/16  
\_\_\_\_\_  
Date

Rene Hernandez  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Yorktown

Mayor  
\_\_\_\_\_  
Title

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

**Attachment A**  
**Docket Number: 2015-1322-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Yorktown</b>
<b>Penalty Amount:</b>	<b>Fifteen Thousand Two Hundred Twenty Dollars (\$15,220)</b>
<b>SEP Offset Amount:</b>	<b>Fifteen Thousand Two Hundred Twenty Dollars (\$15,220)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc.</b>
<b>Project Name:</b>	<b><i>Tire Collection Events and Cleanup of Abandoned Tire Sites</i></b>
<b>Location of SEP:</b>	<b>DeWitt County: San Antonio River Basin, Gulf Coast Aquifer</b>

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

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Tire Collection Events and Cleanup of Abandoned Tire Sites* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with local city and county government officials and private entities (“Partner Entities”) to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling (“Collection Events”), or to clean sites where tires have been disposed of illegally (“Site Cleanups”).

Texas RC&D shall ensure that collected tires, debris, and waste are properly transported to and disposed at an authorized disposal site, and if a licensed hauler is needed for tires or other regulated waste collected from sites, Texas RC&D shall ensure that only properly licensed haulers are used for transport and disposal of tires and regulated wastes. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

City of Yorktown  
Agreed Order - Attachment A

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

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

b. Environmental Benefit

This SEP will provide an environmental benefit by providing communities with a free and convenient means for safe and proper disposal of tires and by reducing the dangers and health threats associated with illegally dumped tires.

The health risks associated with illegal dumping are significant. Areas used for illegal tire dumping may be easily accessible to people, especially children, who are vulnerable to the physical hazards posed by abandoned tires. Rodents, insects, and other vermin attracted to dump sites may also pose health risks. Tire dump sites which contain scrap tires pose an ideal breeding ground for mosquitoes, which can breed 100 times faster in the warm, stagnant water standing in scrap tire casings. Severe illnesses, including West Nile Virus, have been attributed to disease-carrying mosquitoes. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of air, surface water, ground water, and soil. In addition, neighborhoods have been evacuated and property damage has been significant due to tire dump sites that caught fire. Illegal tire dumping can also impact drainage of runoff, making areas more susceptible to flooding when wastes block waterways. Open burning at tire dump sites can cause forest fires and erosion as fires burn away trees and undergrowth. Tire dumping has a negative impact on trees and wildlife, and runoff from tire dumpsites may contain chemicals that can contaminate wells and surface water used for drinking.

c. Minimum Expenditure

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

## **2. Performance Schedule**

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

Texas Association of RC&D Areas, Inc.  
Attn.: Jerry Pearce, Executive Director  
P.O. Box 2533  
Victoria, Texas 77902

## **3. Records and Reporting**

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

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

## **4. Failure to Fully Perform**

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

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

City of Yorktown  
Agreed Order - Attachment A

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

**5. Publicity**

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

**6. Recognition**

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

**7. Other SEPs by TCEQ or Other Agencies**

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