

Executive Summary – Enforcement Matter – Case No. 47906

City of Conroe

RN101607257

Docket No. 2013-2028-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 Conroe Southwest Regional, located at 2400 Sergeant Ed Holcomb Boulevard South, immediately north of the confluence of Lake Creek with the West Fork of the San Jacinto River, at the end of Sergeant Ed Holcomb Boulevard, approximately 2.5 miles west of IH-45 and approximately 2.5 miles south of Farm-to-Market Road 2854, Montgomery 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: July 4, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,400

Amount Deferred for Expedited Settlement: \$1,680

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$6,720

Name of SEP: Armand Bayou Nature Center, Inc. (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 47906
City of Conroe
RN101607257
Docket No. 2013-2028-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 28, 2012 and September 26, 2013

Date(s) of NOE(s): October 8, 2013

Violation Information

1. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the fine air diffusers in Digester No. 4 were inoperable [30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010008002, Operational Requirements No. 1].
2. Failed to ensure that the Facility was operated a minimum of five days per week by a licensed chief operator or operator holding the required level of license or higher. Specifically, the operator for the Facility did not possess a current wastewater license [30 TEX. ADMIN. CODE § 30.350(j) and (n) and TPDES Permit No. WQ0010008002, Operational Requirements No. 9 and Other Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On October 24, 2013, the Respondent cleaned and replaced the fine air diffusers in Digester No. 4.

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 30 days, ensure that a properly certified wastewater treatment facility operator holding a valid license or registration operates the Facility at least five days a week; and
 - b. Within 45 days, submit written certification of compliance with Ordering Provision a.

**Executive Summary – Enforcement Matter – Case No. 47906
City of Conroe
RN101607257
Docket No. 2013-2028-MWD-E**

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: Jacquelyn Green, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565
Respondent: The Honorable Webb K. Melder, Mayor, City of Conroe, P.O. Box 3066,
Conroe, Texas 77305
Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-2028-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Conroe
Penalty Amount:	Six Thousand Seven Hundred Twenty Dollars (\$6,720)
SEP Offset Amount:	Six Thousand Seven Hundred Twenty Dollars (\$6,720)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Armand Bayou Nature Center, Inc.
Project Name:	<i>Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project</i>
Location of SEP:	Harris County

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 **Armand Bayou Nature Center, Inc.** for the *Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration 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 manage the Armand Bayou Nature Center (“ABNC”), which comprises of 2,500 acres located in southeast Harris County. ABNC contains three unique and vanishing ecosystems: coastal tallgrass prairie, forested wetland, and the tidal marsh stream of Armand Bayou. Prescribed burning is one stewardship tool used to maintain a tallgrass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species, which primarily include the Chinese tallow tree and other woody plants. In addition, prescribed mowing shall be conducted on a rotational basis as needed for maintenance of native species and removal of non-native species. The Third Party Administrator shall propagate terrestrial and aquatic native plants and install them to restore the Coastal Prairie, Tidal Marsh, and Forested Wetlands. The SEP Offset Amount will be used to pay for the labor and materials costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and

plants. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not 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

The ecological services provided by the restoration and management of the Coastal Prairie, Tidal Marsh, and Forested Wetlands ecosystems working in concert will help minimize pollution, reduce the amount of pollutants reaching the environment, and enhance water quality and wildlife habitat.

Coastal prairie grasslands are considered fire-dependent plant communities and require frequent exposure to fire effects for full ecological function. Prescribed fire in prairies helps control invasive species, minimize accumulated grass thatch, promote enrichment of soil nutrients and improve prairie plant vigor. One additional benefit of controlled prescribed burns is the reduction of fuels and the prevention of wildfires. This is particularly critical in the urban environment to protect human life and property and to minimize the release of large amounts of particulate matter resulting from uncontrolled wild fire. This treatment ensures that these coastal prairie grasslands will perform at their highest ecological function and provide the maximum potential ecological service to benefit water quality.

Mowing and targeted application of specialized herbicides will also help manage prairie species and remove non-native species. Propagation and installation of native plants will restore the natural balance to these ecosystems, reduce erosion, and increase habitat for wildlife. Plant installation in the Forested Wetland and Tidal Marsh will improve water quality by restoring depleted oxygen levels, providing habitat and nourishment for aquatic organisms, and reclaiming the area for native plants.

Proper management and restoration of these ecosystems will maximize the ecological services that they provide to Armand Bayou and Galveston Bay.

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 **Armand Bayou Nature Center, Inc. SEP** and shall mail the contribution with a copy of the Agreed Order to:

Armand Bayou Nature Center, Inc.
Attention: Mark Kramer, Stewardship Coordinator
P.O. Box 58828
Houston, Texas 77258

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for

City of Conroe
Agreed Order - Attachment A

the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	14-Oct-2013	Screening	28-Oct-2013	EPA Due	
	PCW	30-Oct-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Conroe		
Reg. Ent. Ref. No.	RN101607257		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	47906	No. of Violations	2
Docket No.	2013-2028-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jacquelyn Green
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000
		EC's Team	Enforcement Team 1

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **17.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,275**

Notes

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one month of self-reported effluent violations.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$375

Economic Benefit

0.0% Enhancement*

Subtotal 6

\$0

Total EB Amounts	\$40,693
Approx. Cost of Compliance	\$90,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$8,400

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$8,400

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$8,400

DEFERRAL

20.0%

Reduction

Adjustment

-\$1,680

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

\$6,720

Screening Date 28-Oct-2013

Docket No. 2013-2028-MWD-E

PCW

Respondent City of Conroe

Policy Revision 3 (September 2011)

Case ID No. 47906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101607257

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	1	2%
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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 17%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one month of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 17%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 17%

Screening Date 28-Oct-2013

Docket No. 2013-2028-MWD-E

PCW

Respondent City of Conroe

Policy Revision 3 (September 2011)

Case ID No. 47906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101607257

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010008002, 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 September 26, 2013. Specifically, the fine air diffusers in Digester No. 4 were inoperable.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential		x		

>> 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 which would not exceed levels that are protective of human health or the environment as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 28 Number of violation days

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

Violation Base Penalty \$3,750

One quarterly event is recommended from the record review date (September 26, 2013) to the compliance date (October 24, 2013).

Good Faith Efforts to Comply

10.0% Reduction

\$375

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

Notes The Respondent achieved compliance on October 24, 2013.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,260

Violation Final Penalty Total \$4,013

This violation Final Assessed Penalty (adjusted for limits) \$4,013

Economic Benefit Worksheet

Respondent City of Conroe
Case ID No. 47906
Reg. Ent. Reference No. RN101607257
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50,000	28-Nov-2012	24-Oct-2013	0.90	\$2,260	n/a	\$2,260

Notes for DELAYED costs

Estimated cost to clean and replace the fine air diffusers in Digester No. 4. Date required is the initial 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

\$50,000

TOTAL

\$2,260

Screening Date 28-Oct-2013

Docket No. 2013-2028-MWD-E

PCW

Respondent City of Conroe

Policy Revision 3 (September 2011)

Case ID No. 47906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101607257

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 30.350(j) and (n) and TPDES Permit No. WQ0010008002, Operational Requirements No. 9 and Other Requirements No. 1

Violation Description

Failed to ensure that the Facility was operated a minimum of five days per week by a licensed chief operator or operator holding the required level of license or higher, as documented during a record review conducted on September 26, 2013. Specifically, the operator for the Facility did not possess a current wastewater license.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential		X		

>> 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 which would not 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 1 Number of violation days 32

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

Violation Base Penalty \$3,750

One quarterly event is recommended from the record review date (September 26, 2013) to the screening date (October 28, 2013).

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38,433

Violation Final Penalty Total \$4,388

This violation Final Assessed Penalty (adjusted for limits) \$4,388

Economic Benefit Worksheet

Respondent City of Conroe
Case ID No. 47906
Reg. Ent. Reference No. RN101607257
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				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	\$40,000	28-Nov-2012	28-Oct-2013	0.92	\$1,830	\$36,603	\$38,433
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

Avoided cost based on the estimated yearly salary of a properly certified wastewater treatment plant operator. The date required is the date of the initial inspection and the final date is the screening date.

Approx. Cost of Compliance

\$40,000

TOTAL

\$38,433

The TCEQ is committed to accessibility.

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



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600650311, RN101607257, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600650311, City of Conroe

Classification: SATISFACTORY

Rating: 0.95

Regulated Entity: RN101607257, CITY OF CONROE
SOUTHWEST REGIONAL

Classification: SATISFACTORY

Rating: 2.56

Complexity Points: 10

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 2400 Sergeant Ed Holcomb Boulevard South, immediately north of the confluence of Lake Creek with the West Fork of the San Jacinto River, at the end of Sergeant Ed Holcomb Boulevard, approximately 2.5 miles west of Interstate Highway 45 and approximately 2.5 miles south of Farm-to-Market Road 2854, Montgomery County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER PERMIT WQ0010008002

WASTEWATER EPA ID TX0022268

PRETREATMENT EPA ID TX0022268000

PRETREATMENT PERMIT WQ0010008002

STORMWATER PERMIT TXR05AO34

WASTEWATER LICENSING LICENSE WQ0010008002

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

Date Compliance History Report Prepared: November 18, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 18, 2008 to November 18, 2013

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

Name: Jacquelyn Green

Phone: (512) 239-2587

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	December 16, 2008	(727849)	Item 26	August 17, 2011	(959448)
Item 2	February 19, 2009	(750740)	Item 27	September 14, 2011	(965482)
Item 3	March 19, 2009	(750741)	Item 28	October 19, 2011	(971517)
Item 4	April 21, 2009	(768684)	Item 29	November 16, 2011	(977689)
Item 5	May 18, 2009	(925129)	Item 30	December 16, 2011	(984450)
Item 6	June 15, 2009	(925130)	Item 31	January 18, 2012	(990740)
Item 7	September 14, 2009	(925132)	Item 32	February 16, 2012	(998116)
Item 8	October 14, 2009	(805865)	Item 33	March 16, 2012	(1003633)
Item 9	November 05, 2009	(925131)	Item 34	April 14, 2012	(1010198)
Item 10	December 11, 2009	(805867)	Item 35	May 14, 2012	(1016591)
Item 11	April 14, 2010	(831308)	Item 36	June 15, 2012	(1024323)
Item 12	April 23, 2010	(805864)	Item 37	August 09, 2012	(1031706)
Item 13	June 16, 2010	(846397)	Item 38	August 10, 2012	(1079268)
Item 14	July 29, 2010	(860975)	Item 39	September 13, 2012	(1046824)
Item 15	August 12, 2010	(866986)	Item 40	October 16, 2012	(1061388)
Item 16	October 18, 2010	(881649)	Item 41	November 15, 2012	(1061389)
Item 17	November 15, 2010	(888160)	Item 42	December 14, 2012	(1061390)
Item 18	December 01, 2010	(878234)	Item 43	February 13, 2013	(1079267)
Item 19	December 14, 2010	(896405)	Item 44	March 18, 2013	(1089451)
Item 20	January 14, 2011	(902444)	Item 45	April 18, 2013	(1095840)
Item 21	March 17, 2011	(916482)	Item 46	June 17, 2013	(1110444)
Item 22	April 18, 2011	(925128)	Item 47	July 17, 2013	(1117324)
Item 23	May 18, 2011	(938164)	Item 48	September 16, 2013	(1125091)
Item 24	June 13, 2011	(945540)			
Item 25	July 05, 2011	(952780)			

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:	01/28/2013 (1054013)	CN600650311	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) EL&MR PERMIT		
	Description:	Failed to maintain compliance with the permitted effluent limits.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description:	Failed to properly maintain the de-chlorination facilities.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description:	Failed to adequately maintain the digester.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 30, SubChapter J 30.350(n)		
	Description:	Failed to employ an adequately certified operator.		
2	Date:	03/26/2013 (1075864)	CN600650311	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) EL&MR PERMIT		
	Description:	Failed to maintain compliance with the permitted effluent limits.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description:	Failed to properly maintain the de-chlorination facilities.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description:	Failed to adequately maintain the digester.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 30, SubChapter J 30.350(n)		
	Description:	Failed to employ an adequately certified operator.		

3 Date: 04/30/2013 (1106771) CN600650311
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: 08/16/2013 (1116026)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(1)(iii)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(v)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vii)
Description: Failure to issue a wastewater discharge permit, inspect, independently investigate the claims of zer-discharger, and enforce against the NOV-Downhole industrial user.

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 CONROE
RN101607257**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-2028-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 Conroe ("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 2400 Sergeant Ed Holcomb Boulevard South, immediately north of the confluence of Lake Creek with the West Fork of the San Jacinto River, at the end of Sergeant Ed Holcomb Boulevard, approximately 2.5 miles west of Interstate Highway 45 and approximately 2.5 miles south of Farm-to-Market Road 2854 in Montgomery 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 October 13, 2013.
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 Eight Thousand Four Hundred Dollars (\$8,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Six Hundred Eighty Dollars (\$1,680) 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. Six Thousand Seven Hundred Twenty Dollars (\$6,720) 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 on October 24, 2013, the Respondent cleaned and replaced the fine air diffusers in Digester No. 4.
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 ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010008002, Operational Requirements No. 1, as documented during a record review conducted on September 26, 2013. Specifically, the fine air diffusers in Digester No. 4 were inoperable.
2. Failed to ensure that the Facility was operated a minimum of five days per week by a licensed chief operator or operator holding the required level of license or higher, in violation of 30 TEX. ADMIN. CODE § 30.350(j) and (n) and TPDES Permit No. WQ0010008002, Operational Requirements No. 9 and Other Requirements No. 1, as documented during a record review conducted on September 26, 2013. Specifically, the operator for the Facility did not possess a current wastewater license.

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 Conroe, Docket No. 2013-2028-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, Six Thousand Seven Hundred Twenty Dollars (\$6,720) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A incorporated herein by reference. 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, ensure that a properly certified wastewater treatment facility operator holding a valid license or registration operates the Facility at least five days a week, in accordance with 30 TEX. ADMIN. CODE § 30.350(n) and TPDES Permit No. WQ0010008002, Operational Requirements No. 9 and Other Requirements No. 1.; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a. The written certification shall be notarized by a State of Texas Notary Public, include detailed supporting documentation including photographs, receipts, and/or other records, and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Marcia J
For the Executive Director

9/5/14
Date

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

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

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

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

Webb K. Melder
Signature

5.27.14
Date

Webb K. Melder
Name (Printed or typed)
Authorized Representative of
City of Conroe

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: 2013-2028-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Conroe
Penalty Amount:	Six Thousand Seven Hundred Twenty Dollars (\$6,720)
SEP Offset Amount:	Six Thousand Seven Hundred Twenty Dollars (\$6,720)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Armand Bayou Nature Center, Inc.
Project Name:	<i>Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project</i>
Location of SEP:	Harris County

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 **Armand Bayou Nature Center, Inc.** for the *Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration 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 manage the Armand Bayou Nature Center (“ABNC”), which comprises of 2,500 acres located in southeast Harris County. ABNC contains three unique and vanishing ecosystems: coastal tallgrass prairie, forested wetland, and the tidal marsh stream of Armand Bayou. Prescribed burning is one stewardship tool used to maintain a tallgrass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species, which primarily include the Chinese tallow tree and other woody plants. In addition, prescribed mowing shall be conducted on a rotational basis as needed for maintenance of native species and removal of non-native species. The Third Party Administrator shall propagate terrestrial and aquatic native plants and install them to restore the Coastal Prairie, Tidal Marsh, and Forested Wetlands. The SEP Offset Amount will be used to pay for the labor and materials costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and

plants. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not 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

The ecological services provided by the restoration and management of the Coastal Prairie, Tidal Marsh, and Forested Wetlands ecosystems working in concert will help minimize pollution, reduce the amount of pollutants reaching the environment, and enhance water quality and wildlife habitat.

Coastal prairie grasslands are considered fire-dependent plant communities and require frequent exposure to fire effects for full ecological function. Prescribed fire in prairies helps control invasive species, minimize accumulated grass thatch, promote enrichment of soil nutrients and improve prairie plant vigor. One additional benefit of controlled prescribed burns is the reduction of fuels and the prevention of wildfires. This is particularly critical in the urban environment to protect human life and property and to minimize the release of large amounts of particulate matter resulting from uncontrolled wild fire. This treatment ensures that these coastal prairie grasslands will perform at their highest ecological function and provide the maximum potential ecological service to benefit water quality.

Mowing and targeted application of specialized herbicides will also help manage prairie species and remove non-native species. Propagation and installation of native plants will restore the natural balance to these ecosystems, reduce erosion, and increase habitat for wildlife. Plant installation in the Forested Wetland and Tidal Marsh will improve water quality by restoring depleted oxygen levels, providing habitat and nourishment for aquatic organisms, and reclaiming the area for native plants.

Proper management and restoration of these ecosystems will maximize the ecological services that they provide to Armand Bayou and Galveston Bay.

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 **Armand Bayou Nature Center, Inc. SEP** and shall mail the contribution with a copy of the Agreed Order to:

Armand Bayou Nature Center, Inc.
Attention: Mark Kramer, Stewardship Coordinator
P.O. Box 58828
Houston, Texas 77258

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for

the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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