

Executive Summary – Enforcement Matter – Case No. 58694

City of Ore City

RN101920122

Docket No. 2019-1763-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 Ore City WWTF, located at 400 Martin Luther King Street, approximately 4,300 feet northeast of the intersection of U.S. Highway 259 and Farm-to-Market Road 450, Upshur 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: August 5, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$23,187

Amount Deferred for Expedited Settlement: \$4,637

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$18,550

Name of SEP: WWTP Improvements (Compliance)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 20, 2019

Date(s) of NOE(s): November 22, 2019

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City of Ore City

RN101920122

Docket No. 2019-1763-MWD-E

Violation Information

1. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained and failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment. Specifically, the aeration basin was overloaded, with poor solids settling; the skimmer blades on both clarifiers were broken and non-functional; the scum baffle on the north clarifier was uneven, allowing solids to pass over; both clarifiers had a sludge blanket level of eight-feet deep comprised of cornmeal sludge, with grease balls and other solids passing over the sawtooth weirs; three drying beds were no longer in use; wastewater solids were observed in the chlorine contact chamber and discharged out of the outfall into the unnamed tributary of Meddlin Creek; the tributary was observed to have a grey color, settled sludge solids, and bloodworm and tubifex worms growing in sludge pockets for approximately a half a mile [30 TEX. ADMIN. CODE § 305.125(1), (4), and (5), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014389001, Operational Requirements No. 1 and Permit Conditions No. 2.d].

2. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the interior of the dedicated lift station from La Fama Foods, Inc. was coated in excess grease and corn kernels [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0014389001, Operational Requirements No. 1].

3. Failed to notify the TCEQ within 30 days subsequent to the permittee's knowledge of a substantial change in the volume or character of pollutants being introduced into the treatment works at the time of issuance of the permit. Specifically, the original April 2013 agreement with La Fama Foods, Inc. was to only discharge 30,000 to 40,000 gallons per month into the collection system compared to the estimated flow of 80,000 to 104,000 gallons as of June 2018 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014389001, Contributing Industries and Pretreatment Requirements No. 3.b].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent ceased the industrial user agreement with La Fama Foods, Inc. by February 29, 2020.

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:

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City of Ore City

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Docket No. 2019-1763-MWD-E

a. Within 30 days:

i. Replace the skimmer blades in both clarifiers;

ii. Return the three drying beds to service to properly address excess solids;

iii. Realign the scum baffle on the north clarifier;

iv. Reduce the amount of wastewater solids in both clarifiers;

v. Remove and properly dispose of wastewater solids in the chlorine contact chamber;

vi. Remove and properly dispose of wastewater solids in the receiving tributary and both clarifiers; and

vii. Remove and properly dispose of excess grease and corn kernels from the dedicated lift station from La Fama Foods, Inc.

b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Steven Van Landingham, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-5717; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Betty Sanders, SEP Coordinator, Litigation Division, MC 175, (512) 239-3992

Respondent: The Honorable Angie Edwards, Mayor, City of Ore City, 302 East Main Street, Ore City, Texas 75683-2334

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	2-Dec-2019	Screening	10-Dec-2019	EPA Due	
	PCW	29-Apr-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Ore City				
Reg. Ent. Ref. No.	RN101920122				
Facility/Site Region	5-Tyler	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	58694	No. of Violations	3
Docket No.	2019-1763-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steven Van Landingham
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$13,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **75.0%** Adjustment **Subtotals 2, 3, & 7** **\$9,937**

Notes: Enhancement for six months of self-reported effluent violations, one order containing a denial of liability, and one order without a denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts **\$11,694**
 Estimated Cost of Compliance **\$44,690**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$23,187**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$23,187**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$23,187**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$4,637**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$18,550**

Screening Date 10-Dec-2019

Docket No. 2019-1763-MWD-E

PCW

Respondent City of Ore City

Policy Revision 4 (April 2014)

Case ID No. 58694

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920122

Media Water Quality

Enf. Coordinator Steven Van Landingham

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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%
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) 75%

>> 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 six months of self-reported effluent violations, one order containing a denial of liability, and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 75%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 75%

Screening Date 10-Dec-2019
Respondent City of Ore City
Case ID No. 58694
Reg. Ent. Reference No. RN101920122
Media Water Quality
Enf. Coordinator Steven Van Landingham

Docket No. 2019-1763-MWD-E

PCW

*Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014*

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), (4), and (5), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014389001, Operational Requirements No. 1 and Permit Conditions No. 2.d

Violation Description
 Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained and failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment. Specifically, the aeration basin was overloaded, with poor solids settling; the skimmer blades on both clarifiers were broken and non-functional; the scum baffle on the north clarifier was uneven, allowing solids to pass over; both clarifiers had a sludge blanket level of eight-feet deep comprised of cornmeal sludge, with grease balls and other solids passing over the sawtooth weirs; three drying beds were no longer in use; wastewater solids were observed in the chlorine contact chamber and discharged out of the outfall into the unnamed tributary of Meddlin Creek; the tributary was observed to have a grey color, settled sludge solids, and bloodworm and tubifex worms growing in sludge pockets for approximately a half a mile.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		15.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment has been exposed to significant amounts of pollutants which do 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 3 81 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the September 20, 2019 investigation date to the December 10, 2019 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	

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

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11,391

Violation Final Penalty Total \$19,688

This violation Final Assessed Penalty (adjusted for limits) \$19,688

Economic Benefit Worksheet

Respondent City of Ore City
Case ID No. 58694
Reg. Ent. Reference No. RN101920122
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	Costs Saved	EB Amount
Delayed Costs							

Equipment	\$5,000	14-Feb-2018	25-Mar-2022	4.11	\$68	\$1,370	\$1,438
Project	\$25,640	14-Feb-2018	25-Mar-2022	4.11	\$351	\$7,025	\$7,376
Other (as needed)	\$5,000	25-Oct-2018	25-Mar-2022	3.42	\$57	\$1,139	\$1,196
Engineering/Construction	\$2,500	14-Feb-2018	25-Mar-2022	4.11	\$34	\$685	\$719
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	\$2,000	14-Feb-2018	25-Mar-2022	4.11	\$411	n/a	\$411
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	20-Sep-2019	25-Mar-2022	2.51	\$251	n/a	\$251

Notes for DELAYED costs

Estimated Equipment cost to replace the skimmer blades in both clarifiers. The Date Required is the date the violation was first documented and the Final Date is the estimated date of compliance.

Project cost for materials, supplies, and equipment to repair the existing floating paddle wheel aerator at the Facility. The Date Required is the date the non-compliance was first documented and the Final Date is the estimated date of compliance.

Estimated cost to return the three drying beds to service to properly address excess solids at the Facility. The Date Required is the date the issue was first documented and the Final Date is the estimated date of compliance.

Estimated Engineering/Construction cost to realign the scum baffle on the north clarifier. The Date Required is the date the violation was first documented and the Final Date is the estimated date of compliance.

Estimated Remediation/Disposal cost to reduce the amount of wastewater solids in both clarifiers and remove and properly dispose of wastewater solids in the chlorine contact chamber and both clarifiers. The Date Required is the date the violation was first documented and the Final Date is the estimated date of compliance.

Estimated cost to remove and properly dispose of wastewater solids in the receiving tributary. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs **ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$42,140	TOTAL	\$11,391
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Screening Date 10-Dec-2019
Respondent City of Ore City
Case ID No. 58694
Reg. Ent. Reference No. RN101920122
Media Water Quality
Enf. Coordinator Steven Van Landingham

Docket No. 2019-1763-MWD-E

PCW

*Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014*

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0014389001, Operational Requirements No. 1

Violation Description
 Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the interior of the dedicated lift station from La Fama Foods, Inc. was coated in excess grease and corn kernels.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Ore City
Case ID No. 58694
Reg. Ent. Reference No. RN101920122
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	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,500	28-Oct-2018	27-Oct-2020	2.00	\$250	n/a	\$250
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Remediation/Disposal cost to remove and properly dispose of excess grease and corn kernels from the dedicated lift station from La Fama Foods, Inc. The Date Required is the date the violation was documented and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$250

Screening Date 10-Dec-2019
Respondent City of Ore City
Case ID No. 58694
Reg. Ent. Reference No. RN101920122
Media Water Quality
Enf. Coordinator Steven Van Landingham

Docket No. 2019-1763-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014389001, Contributing Industries and Pretreatment Requirements No. 3.b

Violation Description

Failed to notify the TCEQ within 30 days subsequent to the permittee's knowledge of a substantial change in the volume or character of pollutants being introduced into the treatment works at the time of issuance of the permit. Specifically, the original April 2013 agreement with La Fama Foods, Inc. was to only discharge 30,000 to 40,000 gallons per month into the collection system compared to the estimated flow of 80,000 to 104,000 gallons as of June 2018.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

100% of the rule requirements were not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Ore City
Case ID No. 58694
Reg. Ent. Reference No. RN101920122
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

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

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$50	30-Jul-2018	10-Dec-2019	1.36	\$3	\$50	\$53
Notes for AVOIDED costs Estimated avoided cost to notify the TCEQ within 30 days subsequent to the permittee's knowledge of a substantial change in the volume or character of pollutants being introduced into the treatment works. The Date Required is the date the notification was due and the Final Date is the screening date.							

Approx. Cost of Compliance \$50

TOTAL \$53

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

Compliance History Report for CN600635890, RN101920122, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600635890, City of Ore City **Classification:** SATISFACTORY **Rating:** 14.82

Regulated Entity: RN101920122, City of Ore City **Classification:** SATISFACTORY **Rating:** 14.82

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 400 ML King Street, approximately 4,300 feet northeast of the intersection of United States Highway 259 and Farm-to-Market Road 450 in Upshur County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s): **WASTEWATER** EPA ID TX0024236
WASTEWATER PERMIT WQ0014389001

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: June 25, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 25, 2015 to June 25, 2020

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

Name: Steven Van Landingham

Phone: (512) 239-5717

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

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

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

- 1 Effective Date: 05/25/2016 ADMINORDER 2015-1524-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: TPDES Permit No. WQ0014389001 PERMIT
Description: Failed to comply with permitted effluent limitations.
- 2 Effective Date: 07/10/2018 ADMINORDER 2017-0958-MWD-E (1660 Order-Agreed Order With 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: 305.125(1) PERMIT
Description: Failed to comply with permitted effluent limitations

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	January 26, 2016	(1315882)	Item 14	October 13, 2017	(1456225)
Item 2	February 23, 2016	(1325273)	Item 15	November 17, 2017	(1461692)
Item 3	March 03, 2016	(1325274)	Item 16	July 13, 2018	(1514289)
Item 4	April 20, 2016	(1339164)	Item 17	January 03, 2019	(1545473)
Item 5	May 19, 2016	(1345970)	Item 18	January 15, 2019	(1560418)
Item 6	June 20, 2016	(1337958)	Item 19	February 15, 2019	(1560416)
Item 7	July 19, 2016	(1359377)	Item 20	March 14, 2019	(1560417)
Item 8	July 25, 2016	(1352408)	Item 21	April 11, 2019	(1572073)
Item 9	August 16, 2016	(1365807)	Item 22	July 12, 2019	(1593404)
Item 10	September 27, 2016	(1372501)	Item 23	February 18, 2020	(1640909)
Item 11	November 02, 2016	(1378676)	Item 24	March 18, 2020	(1647428)
Item 12	January 06, 2017	(1390775)	Item 25	April 17, 2020	(1653768)
Item 13	April 13, 2017	(1417874)			

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ORE CITY
RN101920122

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§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2019-1763-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 Ore City (the "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 400 ML King Street, approximately 4,300 feet northeast of the intersection of United States Highway 259 and Farm-to-Market Road 450 in Upshur County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$23,187 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$4,637 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$18,550 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. 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). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent ceased the industrial user agreement with La Fama Foods, Inc. by February 29, 2020.

II. ALLEGATIONS

During an investigation conducted on September 20, 2019, an investigator documented that the Respondent:

1. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained and failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment, in violation of 30 TEX. ADMIN. CODE § 305.125(1), (4), and (5), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014389001, Operational Requirements No. 1 and Permit Conditions No. 2.d. Specifically, the aeration basin was overloaded, with poor solids settling; the skimmer blades on both clarifiers were broken and non-functional; the scum baffle on the north clarifier was uneven, allowing solids to pass over; both clarifiers had a sludge blanket level of eight-feet deep comprised of cornmeal sludge, with grease balls and other solids passing over the sawtooth weirs; three drying beds were no longer in use; wastewater solids were observed in the chlorine contact chamber and discharged out of the outfall into the unnamed tributary of Meddlin Creek; the tributary was observed to have a grey color, settled sludge solids, and bloodworm and tubifex worms growing in sludge pockets for approximately a half a mile.
2. Failed to ensure 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. WQ0014389001, Operational Requirements No. 1. Specifically, the interior of the dedicated lift station from La Fama Foods, Inc. was coated in excess grease and corn kernels.

3. Failed to notify the TCEQ within 30 days subsequent to the permittee's knowledge of a substantial change in the volume or character of pollutants being introduced into the treatment works at the time of issuance of the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014389001, Contributing Industries and Pretreatment Requirements No. 3.b. Specifically, the original April 2013 agreement with La Fama Foods, Inc. was to only discharge 30,000 to 40,000 gallons per month into the collection system compared to the estimated flow of 80,000 to 104,000 gallons as of June 2018.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Ore City, Docket No. 2019-1763-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 an SEP as set forth in Section I, Paragraph No. 4. The amount of \$18,550 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Replace the skimmer blades in both clarifiers;
 - ii. Return the three drying beds to service to properly address excess solids at the Facility;
 - iii. Realign the scum baffle on the north clarifier;
 - iv. Reduce the amount of wastewater solids in both clarifiers;

- v. Remove and properly dispose of wastewater solids in the chlorine contact chamber;
 - vi. Remove and properly dispose of wastewater solids in the receiving tributary and both clarifiers; and
 - vii. Remove and properly dispose of excess grease and corn kernels from the dedicated lift station from La Fama Foods, Inc.
- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i through 3.a.vii. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

- 4. All relief not expressly granted in this Order is denied.
- 5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this 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.

7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
8. This 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 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.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. 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



9/28/2022

For the Executive Director

Date

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

I also understand that failure to comply with the Ordering Provisions, 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

9/28/2022

Date

Angie Edwards, Mayor

Name (Printed or typed)
Authorized Representative of
City of Ore City

Mayor

Title

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

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

Attachment A

Docket Number: 2019-1763-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Ore City
Penalty Amount:	Eighteen Thousand Five Hundred Fifty Dollars (\$18,550)
SEP Offset Amount:	Eighteen Thousand Five Hundred Fifty Dollars (\$18,550)
Type of SEP:	Compliance
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	Upshur County

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

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility (the “Facility”) which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s Facility.

1. Project Description

A. Project

Respondent shall hire a contractor to repair the existing floating paddle wheel aerator at the Facility. The project will consist of removing and replacing the head shaft, head shaft bearing, and dodge gear reducer. The project will help maintain sufficient oxygen levels in the oxidation ditch and support healthy sludge. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for floating paddle wheel aerator repair (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations, including permits that may be

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

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing wastewater discharges being released into the environment during the collection process.

Wastewater discharges can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. Additional risks include occurrences of low dissolved oxygen, fish kills, algal bloom, and bacterial contamination in waterways.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Units	Total
Paddle Wheel Repair	1	Lump Sum	\$25,640
Total			\$25,640

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 45 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 45 days after the effective date of this Agreed Order, Respondent shall submit a Final Report to the TCEQ containing detailed information on all actions of the completed Project.

Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
45	Notice of SEP completion

B. Final Report

Within 45 days after the effective date of the Agreed Order, or within 30 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
4. Copies of proof of advertisement of invitation for bids, if applicable;
5. A certified statement of SEP completion and document authentication;
6. Detailed map showing specific location of the project site(s);
7. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
8. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

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

City of Ore City
Docket No. 2019-1793-MWD-E
Attachment A

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

6. Publicity

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

7. Recognition

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

8. Other SEPs by TCEQ or Other Agencies

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