

Executive Summary – Enforcement Matter – Case No. 58940

City of Poteet

RN102078417

Docket No. 2020-0267-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 Poteet WWTF, 1304 South 9th Street, Poteet, Atascocsa 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: September 17, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$48,874

Amount Deferred for Expedited Settlement: \$9,774

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$39,100

Name of SEP: Poteet UV System 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: December 10, 2019

Date(s) of NOE(s): January 30, 2020

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City of Poteet

RN102078417

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Violation Information

1. Failed to submit quarterly progress reports. Specifically, the Respondent failed to submit quarterly progress reports due the first day of January and April 2019 [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013630001, Other Requirements No. 6].

2. Failed to report to the TCEQ in writing, any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of noncompliance. Specifically, the Respondent did not provide noncompliance notifications for the exceedances during the monthly monitoring periods of December 2018 through September 2019 and November 2019 [30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.c].

3. Failed to install adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention. Specifically, the backup diesel generator at the Facility was not operational [30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0013630001, Operational Requirements No. 4].

4. Failed to test the reduced-pressure backflow assembly ("RPBA") annually. Specifically, the RPBA was not tested by the June 10, 2018 due date [30 TEX. ADMIN. CODE § 317.4(a)(8)].

5. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, weir panels within the clarifier were partially separated which allowed wastewater between the weir panels and the clarifier wall into the trough; and of the three banks of ultraviolet lights used for disinfection, one was in disrepair and the other two appeared to have missing or dim bulbs [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0013630001, Operational Requirements No. 1].

6. Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flow and failed to have flow measurements, equipment, installation, and procedures conform to those prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved. Specifically, the automatic flow meter was measuring a greater than 10% difference than the staff gauge and readings during peak flow were off the circle flow chart [30 TEX. ADMIN. CODE §§ 319.11(d) and 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 5].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Tested the RPBA by December 3, 2018;
- b. Calibrated the automatic flow measuring devices by December 30, 2019;
- c. Repaired the backup diesel generator by January 10, 2020;
- d. Repaired the weir panels within the clarifier by February 18, 2020; and
- e. Replaced the ultraviolet disinfection system at the Facility by January 11, 2021.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Steven Van Landingham, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-5717; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Betty Sanders, SEP Coordinator, Litigation Division, MC 173, (512) 239-3992

Respondent: The Honorable Willie Leal, Jr., Mayor, City of Poteet, P.O. Box 378, Poteet, Texas 78065-0378

Kim Davis, City Administrator, City of Poteet, P.O. Box 378, Poteet, Texas 78065-0378

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	3-Feb-2020	Screening	11-Feb-2020	EPA Due	
	PCW	29-Jul-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Poteet
Reg. Ent. Ref. No.	RN102078417
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	58940	No. of Violations	7
Docket No.	2020-0267-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	\$37,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	38.0%	Adjustment	Subtotals 2, 3, & 7	\$14,060
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Notes: Enhancement for one order containing a denial of liability and nine months of self-reported effluent violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$2,186
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$11,395
 Estimated Cost of Compliance: \$142,955
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$48,874
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$48,874
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$48,874
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DEFERRAL	20.0%	Reduction	Adjustment	-\$9,774
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$39,100
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Screening Date 11-Feb-2020

Docket No. 2020-0267-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 58940

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

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>)	0	0%
	Other written NOVs	9	18%
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	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 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) 38%

>> 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 one order containing a denial of liability and nine months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 38%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 38%

Screening Date 11-Feb-2020
Respondent City of Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
Media Water Quality
Enf. Coordinator Steven Van Landingham

Docket No. 2020-0267-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) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013630001, Other Requirements No. 6

Violation Description Failed to submit quarterly progress reports. Specifically, the Respondent failed to submit quarterly progress reports due the first day of January and April 2019.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 406 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Two single events are recommended.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$525

Violation Final Penalty Total \$3,450

This violation Final Assessed Penalty (adjusted for limits) \$3,450

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
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
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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	\$503	1-Apr-2019	11-Feb-2020	0.87	\$22	\$503	\$525
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to submit quarterly progress reports due January and April 2019 (\$250 per report plus accrued interest). The Date Required is the last missed date the quarterly progress reports were due and the final date is the screening date.

Approx. Cost of Compliance

\$503

TOTAL

\$525

Screening Date 11-Feb-2020

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PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 58940

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media Water Quality

Enf. Coordinator Steven Van Landingham

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (9)(A) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.c

Violation Description Failed to report to the TCEQ in writing, any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of noncompliance. Specifically, the Respondent did not provide noncompliance notifications for the exceedances during the monthly monitoring periods of December 2018 through September 2019 and November 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 11 334 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$13,750

Eleven single events are recommended for the months of December 2018 through September 2019 and November 2019.

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 \$13,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$284

Violation Final Penalty Total \$18,975

This violation Final Assessed Penalty (adjusted for limits) \$18,975

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
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				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	\$282	25-Dec-2019	11-Feb-2020	0.13	\$2	\$282	\$284
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to submit a noncompliance notification for the effluent exceedances that occurred December 2018 through September 2019 and November 2019 (\$25 per notification plus accrued interest).
 The Date Required is the date the last noncompliance notification was due and the Final date is the screening date.

Approx. Cost of Compliance

\$282

TOTAL

\$284

Screening Date 11-Feb-2020
Respondent City of Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
Media Water Quality
Enf. Coordinator Steven Van Landingham

Docket No. 2020-0267-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. WQ0013630001, Operational Requirements No. 4

Violation Description Failed to install adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention. Specifically, the backup diesel generator at the Facility was not operational.

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="15.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One monthly event is recommended from the December 10, 2019 investigation date to the January 10, 2020 compliance date.

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

Notes The Respondent achieved compliance by January 10, 2020.

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 Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
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	\$5,000	10-Dec-2019	10-Jan-2020	0.08	\$1	\$28	\$29
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

Estimated Equipment cost to repair the backup diesel generator at the Facility. The Date Required is the investigation date and the Final Date is the compliance date.

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

\$5,000

TOTAL

\$29

Screening Date 11-Feb-2020

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PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 58940

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media Water Quality

Enf. Coordinator Steven Van Landingham

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 317.4(a)(8)

Violation Description Failed to test the reduced-pressure backflow assembly ("RPBA") annually. Specifically, the RPBA was not tested by the June 10, 2018 due date.

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 pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 176 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$937

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

Notes The Respondent achieved compliance by December 3, 2018.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$4,238

This violation Final Assessed Penalty (adjusted for limits) \$4,238

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$250	10-Jun-2018	3-Dec-2018	0.48	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to test the RPBA at the Facility by a licensed tester. The Date Required is the date the test was due and the Final Date is the compliance date.

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

\$250

TOTAL

\$6

Screening Date 11-Feb-2020

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PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 58940

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media Water Quality

Enf. Coordinator Steven Van Landingham

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0013630001, 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, weir panels within the clarifier were partially separated which allowed wastewater between the weir panels and the clarifier wall into the trough.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (5.0%).

>> Programmatic Matrix

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

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 63

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event).

Violation Base Penalty \$1,250

One quarterly event is recommended from the December 10, 2019 investigation date to the February 11, 2020 screening date.

Good Faith Efforts to Comply

10.0%

Reduction \$125

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Table with columns: Effort Type (Extraordinary, Ordinary, N/A).

Notes The Respondent achieved compliance by February 18, 2020.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$499

Violation Final Penalty Total \$1,600

This violation Final Assessed Penalty (adjusted for limits) \$1,600

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$5,000	20-Feb-2018	18-Feb-2020	1.99	\$499	n/a	\$499

Notes for DELAYED costs

Estimated cost to repair the weir panels within the clarifier. The Date Required is the date the violations were initially documented and the Final Date is the 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

\$5,000

TOTAL

\$499

Screening Date 11-Feb-2020

Docket No. 2020-0267-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 58940

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media Water Quality

Enf. Coordinator Steven Van Landingham

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0013630001, 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, of the three banks of ultraviolet lights used for disinfection, one was in disrepair and the other two appeared to have missing or dim bulbs.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

63 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 December 10, 2019 investigation date to the February 11, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/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 \$10,051

Violation Final Penalty Total \$15,525

This violation Final Assessed Penalty (adjusted for limits) \$15,525

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 6

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$131,670	10-Dec-2019	11-Jan-2021	1.09	\$479	\$9,572	\$10,051
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

Actual Engineering/Construction cost to replace the ultraviolet disinfection system at the Facility. The Date Required is the investigation date and the Final Date is the compliance date.

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

\$131,670

TOTAL

\$10,051

Screening Date 11-Feb-2020

Docket No. 2020-0267-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 58940

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media Water Quality

Enf. Coordinator Steven Van Landingham

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code §§ 319.11(d) and 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 5

Violation Description Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flow and failed to have flow measurements, equipment, installation, and procedures conform to those prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved. Specifically, the automatic flow meter was measuring a greater than 10% difference than the staff gauge and readings during peak flow were off the circle flow chart.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				3.0%
	Potential			x	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

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 \$24,250

\$750

Violation Events

Number of Violation Events 1 20 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$187

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

Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance by December 30, 2019.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1 Violation Final Penalty Total \$848

This violation Final Assessed Penalty (adjusted for limits) \$848

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 58940
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 7

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				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)	\$250	10-Dec-2019	30-Dec-2019	0.05	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to calibrate the automatic flow measuring devices at the Facility. The Date Required is the investigation date and the Final Date is the compliance date.

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

\$250

TOTAL

\$1

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 CN600734818, RN102078417, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600734818, City of Poteet **Classification:** SATISFACTORY **Rating:** 19.00
Regulated Entity: RN102078417, City of Poteet **Classification:** SATISFACTORY **Rating:** 19.00
Complexity Points: 7 **Repeat Violator:** NO
CH Group: 08 - Sewage Treatment Facilities
Location: 1304 South 9th Street, City of Poteet, Atascosa County, Texas
TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

WASTEWATER PERMIT WQ0013630001

WASTEWATER EPA ID TX0032387

WASTEWATER AUTHORIZATION R13630001

WASTEWATER LICENSING LICENSE WQ0013630001

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

Date Compliance History Report Prepared: May 06, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 06, 2015 to May 06, 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: 09/29/2016 ADMINORDER 2016-0103-MWD-E (1660 Order-Agreed Order With Denial)

Classification: Minor

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

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: Operational Requirements No. 1 PERMIT

Description: Failed to properly operate and maintain the Facility and all of its systems of collection, treatment and disposal, as documented during an investigation conducted on November 16, 2015. Specifically, the weir panels were not affixed to the clarifier walls (allowing wastewater to flow through gaps between the weir and clarifier walls), the sludge blanket level in the large clarifier was 10.5 feet in a total water depth of 14 feet, and only 1 out of 3 pumps installed was operational.

Classification: Moderate

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

Rqmt Prov: Monitoring and Reporting Reqs 7.c PERMIT

Description: Failure to provide notification of any effluent violation which deviates from the permitted effluent limitation by more than 40%. Specifically, during the record review period of October 2014 to September 2015, violations of the daily maximum concentration for E. coli, daily average concentration for ammonia nitrogen, and daily average and daily maximum concentrations for total suspended solids were noted to have deviated from the permitted limit by more than 40% (See Attachment 2).

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(4)

Rqmt Prov: Permit Conditions No. 2.g PERMIT

Description: Failed to prevent unauthorized discharges of wastewater or any other waste into or adjacent to water in the state at any location not permitted as an outfall. Specifically, during the 18 months preceding the investigation, one unauthorized discharge (UD) occurred on October 2, 2015, discharging 200 gallons of untreated wastewater.

Classification: Moderate

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

Rqmt Prov: Monitoring and Reporting Reqs No. 7.b.i PERMIT

Description: Failed to provide notification of any noncompliance which may endanger human health or safety, or the environment. Specifically, during the record review period of May 2014 to October 2015, one UD was noted to have occurred on October 2, 2015. Notification of this UD was not provided to the TCEQ until October 14, 2015.

Classification: Minor

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

30 TAC Chapter 319, SubChapter A 319.9(c)

Rqmt Prov: Def and Std Permit Conditions No. 3.a PERMIT

Description: Failed to properly collect flow-proportional composite samples.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	November 25, 2015	(1293776)	Item 9	July 13, 2017	(1440294)
Item 2	June 07, 2016	(1329057)	Item 10	October 17, 2017	(1456436)
Item 3	December 15, 2016	(1371178)	Item 11	November 14, 2017	(1461903)
Item 4	March 14, 2017	(1411584)	Item 12	December 15, 2017	(1468288)
Item 5	April 17, 2017	(1418081)	Item 13	January 19, 2018	(1474984)
Item 6	May 15, 2017	(1425673)	Item 14	December 13, 2019	(1616855)
Item 7	May 26, 2017	(1414550)			
Item 8	June 14, 2017	(1431710)			

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: 05/31/2019 (1584160)				
	Self Report? YES		Classification:	Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)				
	30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description: Failure to meet the limit for one or more permit parameter				
2	Date: 06/30/2019 (1593614)				
	Self Report? YES		Classification:	Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)				
	30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description: Failure to meet the limit for one or more permit parameter				
3	Date: 07/31/2019 (1599944)				
	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: 08/31/2019 (1606846)				
	Self Report? YES		Classification:	Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)				
	30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description: Failure to meet the limit for one or more permit parameter				
5	Date: 09/30/2019 (1613689)				
	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				
6	Date: 10/31/2019 (1619502)				
	Self Report? YES		Classification:	Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)				
	30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description: Failure to meet the limit for one or more permit parameter				
7	Date: 11/30/2019 (1626855)				
	Self Report? YES		Classification:	Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)				
	30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description: Failure to meet the limit for one or more permit parameter				
8	Date: 12/31/2019 (1634496)				

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

9 Date: 01/31/2020 (1641112)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF POTEET
RN102078417**

**§
§
§
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§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2020-0267-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 Poteet (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 1304 South 9th Street in Poteet, Atascosa 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 \$48,874 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$9,774 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, \$39,100 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 implemented the following corrective measures at the Facility:
 - a. Tested the reduced-pressure backflow assembly ("RPBA") by December 3, 2018;
 - b. Calibrated the automatic flow measuring devices at the Facility by December 30, 2019;
 - c. Repaired the backup diesel generator by January 10, 2020;
 - d. Repaired the weir panels within the clarifier by February 18, 2020; and
 - e. Replaced the ultraviolet disinfection system at the Facility by January 11, 2021.

II. ALLEGATIONS

During an investigation conducted on December 10, 2019, an investigator documented that the Respondent:

1. Failed to submit quarterly progress reports, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013630001, Other Requirements No. 6. Specifically, the Respondent failed to submit quarterly progress reports due the first day of January and April 2019.
2. Failed to report to the TCEQ in writing, any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.c. Specifically, the Respondent did not provide noncompliance notifications for the exceedances during the monthly monitoring periods of December 2018 through September 2019 and November 2019.
3. Failed to install adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0013630001, Operational Requirements No. 4. Specifically, the backup diesel generator at the Facility was not operational.
4. Failed to test the RPBA annually, in violation of 30 TEX. ADMIN. CODE § 317.4(a)(8). Specifically, the RPBA was not tested by the June 10, 2018 due date.
5. 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. WQ0013630001, Operational Requirements No. 1. Specifically, weir panels within the clarifier were partially separated which allowed wastewater between the weir panels and the clarifier wall into the trough; and of the three banks of ultraviolet lights used for disinfection, one was in disrepair and the other two appeared to have missing or dim bulbs.
6. Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flow and failed to have flow measurements, equipment, installation, and procedures conform to those prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved, in violation of 30 TEX. ADMIN. CODE §§ 319.11(d) and 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 5. Specifically, the automatic flow meter was measuring a greater than 10% difference than the staff gauge and readings during peak flow were off the circle flow chart.

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 Poteet, Docket No. 2020-0267-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 implemented and completed an SEP as set forth in Section I, Paragraph No. 4. The amount of \$39,100 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. All relief not expressly granted in this Order is denied.
4. 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.
5. 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.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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 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.
8. 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.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

3/7/2022

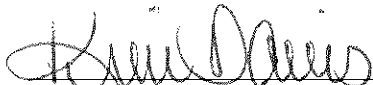
Date

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

02/07/2022

Date

Kim Davis
Name (Printed or typed)
Authorized Representative of
City of Poteet

City Administrator
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: 2020-0267-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Poteet
Penalty Amount:	Thirty-Nine Thousand One Hundred Dollars (\$39,100)
SEP Offset Amount:	Thirty-Nine Thousand One Hundred Dollars (\$39,100)
Type of SEP:	Compliance
Project Name:	<i>Poteet UV System Improvements</i>
Location of SEP:	Atascosa 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”).

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.

I. Project Description

A. Project

Respondent hired a contractor to purchase and replace the UV disinfection system at the Facility. Specifically, the SEP Offset Amount was used for materials, supplies, and equipment for the removal and replacement of the UV disinfection system (the “Project”). Respondent hired qualified contractors to perform the Project. The SEP was performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent used the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Expenses, below. No portion of the SEP Offset Amount was 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 had no prior commitment to perform this Project and that the SEP was 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 improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent 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. Expenses

Respondent spent at least the SEP Offset Amount to complete the project described in Section 1, above, and complied with all other provisions of this SEP. Respondent understood that it may have cost more than the SEP Offset Amount to complete the Project.

Expenses

Item	Units	Total
UV Disinfection System Removal and Replacement	LS	\$131,670
Total		\$131,670

2. Records

As of January 11, 2021, Respondent provided TCEQ the following documentation as proof of completion of the proposed SEP:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 2.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 2.1., above;
4. A certified statement of SEP completion and document authentication;
5. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
6. Detailed map showing specific location of the project site(s); and
7. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project.

3. 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.

4. 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 Poteet
Docket No. 2020-0267-MWD-E
Attachment A

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

5. Publicity

Any public statements concerning this 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 TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

Respondent may not seek recognition for this project 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 Respondent under any other Agreed Order negotiated with TCEQ or any other agency of the state or federal government.