

Executive Summary – Enforcement Matter – Case No. 60005
City of Los Fresnos
RN102184207
Docket No. 2020-1405-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Los Fresnos WWTP, 802 South Nogal Street, Los Fresnos, Cameron 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 20, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$38,812

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$38,812

Name of SEP: WWTP Improvements (Compliance)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

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: August 31, 2020

Date(s) of NOE(s): October 20, 2020

Executive Summary – Enforcement Matter – Case No. 60005
City of Los Fresnos
RN102184207
Docket No. 2020-1405-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010590002, Interim Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

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, within 260 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010590002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations to demonstrate compliance.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Katelyn Tubbs, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2512; 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 Alejandro Flores, Mayor, City of Los Fresnos, 520 East Ocean Boulevard, Los Fresnos, Texas 78566

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	26-Oct-2020	Screening	27-Oct-2020	EPA Due	5-Dec-2020
	PCW	25-Jun-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Los Fresnos		
Reg. Ent. Ref. No.	RN102184207		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	60005	No. of Violations	2
Docket No.	2020-1405-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Katelyn Tubbs
		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** **\$28,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **35.0%** Adjustment **Subtotals 2, 3, & 7** **\$10,062**

Notes: Enhancement for three months of self-reported effluent violations and an Order containing 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 **\$3,999**
 Estimated Cost of Compliance **\$39,508**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$38,812**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$38,812**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$38,812**

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

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$38,812**

Screening Date 27-Oct-2020

Docket No. 2020-1405-MWD-E

PCW

Respondent City of Los Fresnos

Policy Revision 4 (April 2014)

Case ID No. 60005

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102184207

Media Water Quality

Enf. Coordinator Katelyn Tubbs

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>)	3	15%
	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	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) 35%

>> 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 three months of self-reported effluent violations and an Order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 27-Oct-2020
Respondent City of Los Fresnos
Case ID No. 60005
Reg. Ent. Reference No. RN102184207
Media Water Quality
Enf. Coordinator Katelyn Tubbs

Docket No. 2020-1405-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), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010590002, Interim Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			100.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes
 A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amount of pollutants exceeded levels protective of human health or the environment. Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$0

\$25,000

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$25,000

One monthly event is recommended for the month of May 2020.

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 \$25,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,999 **Violation Final Penalty Total** \$33,750

This violation Final Assessed Penalty (adjusted for limits) \$33,750

Economic Benefit Worksheet

Respondent City of Los Fresnos
Case ID No. 60005
Reg. Ent. Reference No. RN102184207
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)	\$39,508	30-Apr-2020	9-May-2022	2.02	\$3,999	n/a	\$3,999

Notes for DELAYED costs

Actual Other cost to implement "WWTP Improvements" project and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance 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

\$39,508

TOTAL

\$3,999

Screening Date 27-Oct-2020
Respondent City of Los Fresnos
Case ID No. 60005
Reg. Ent. Reference No. RN102184207
Media Water Quality
Enf. Coordinator Katelyn Tubbs

Docket No. 2020-1405-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), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010590002, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

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

>> Programmatic Matrix

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

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amount of pollutants exceeded levels protective of human health or the environment. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended for the quarter containing the months of April and June 2020.

Good Faith Efforts to Comply

Reduction

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

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Los Fresnos
Case ID No. 60005
Reg. Ent. Reference No. RN102184207
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

See Economic Benefit No. 1.

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

\$0

TOTAL

\$0

City of Los Fresnos
Docket No. 2020-1405-MWD-E
TPDES Permit No. WQ0010590002
Case No. 60005

Effluent Violation Table

	Ammonia Nitrogen		
	Daily Average Concentration	Daily Maximum Concentration	Daily Average Loading
Monitoring Period	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 25 lbs/day
April 2020	8.28	23	35.28
May 2020	17.88	27	79.22
June 2020	6.44	15	28.98

mg/L = milligrams per liter lbs/day = pounds per day

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Compliance History Report

Compliance History Report for CN600241483, RN102184207, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600241483, City of Los Fresnos **Classification:** SATISFACTORY **Rating:** 1.57
Regulated Entity: RN102184207, CITY OF LOS FRESNOS WWTP **Classification:** SATISFACTORY **Rating:** 3.00
Complexity Points: 10 **Repeat Violator:** NO
CH Group: 08 - Sewage Treatment Facilities
Location: 802 South Nogal Street, in the City of Los Fresnos, Cameron County, Texas
TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

WASTEWATER PERMIT WQ0010590002

WASTEWATER EPA ID TX0091243

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: October 27, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 27, 2015 to October 27, 2020

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

Name: Katelyn Tubbs

Phone: (512) 239-2512

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: 10/26/2016 ADMINORDER 2016-0230-MWD-E (1660 Order-Agreed Order With Denial)

Classification: Major

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

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010590002, Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on January 11, 2016

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	December 28, 2015	(1310160)	Item 7	September 21, 2016	(1373528)
Item 2	January 25, 2016	(1316924)	Item 8	October 24, 2016	(1379703)
Item 3	February 25, 2016	(1326286)	Item 9	November 17, 2016	(1385648)
Item 4	May 16, 2016	(1346992)	Item 10	December 16, 2016	(1391779)
Item 5	June 20, 2016	(1353420)	Item 11	January 24, 2017	(1398406)
Item 6	July 18, 2016	(1360395)			

Item 12	February 13, 2017	(1390198)	Item 31	November 09, 2018	(1542709)
Item 13	February 14, 2017	(1405306)	Item 32	December 11, 2018	(1546451)
Item 14	March 17, 2017	(1412381)	Item 33	February 08, 2019	(1563435)
Item 15	April 11, 2017	(1418886)	Item 35	March 13, 2019	(1563436)
Item 16	June 15, 2017	(1432542)	Item 36	April 09, 2019	(1573075)
Item 17	July 12, 2017	(1441098)	Item 37	April 16, 2019	(1548527)
Item 18	August 10, 2017	(1444776)	Item 39	May 10, 2019	(1585750)
Item 19	September 12, 2017	(1451366)	Item 40	June 14, 2019	(1585751)
Item 20	October 16, 2017	(1457242)	Item 41	July 15, 2019	(1594431)
Item 21	November 16, 2017	(1462690)	Item 42	September 04, 2019	(1600724)
Item 22	December 14, 2017	(1469091)	Item 43	September 13, 2019	(1607639)
Item 23	March 13, 2018	(1491658)	Item 44	October 16, 2019	(1614509)
Item 24	April 12, 2018	(1494907)	Item 45	November 07, 2019	(1620298)
Item 25	May 11, 2018	(1501860)	Item 46	December 11, 2019	(1627647)
Item 26	June 15, 2018	(1508969)	Item 47	December 12, 2019	(1635278)
Item 27	July 13, 2018	(1515286)	Item 48	February 10, 2020	(1641893)
Item 28	August 16, 2018	(1521336)	Item 49	March 17, 2020	(1648407)
Item 29	September 18, 2018	(1528518)	Item 50	March 19, 2020	(1654759)
Item 30	October 10, 2018	(1534855)	Item 51	August 18, 2020	(1681570)

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: 04/30/2020 (1661325)
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: 05/31/2020 (1667852)
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: 06/30/2020 (1674800)
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

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain the facility in accordance with Title 30 of the Texas Administrative Code (TAC) Chapter §305.125 (5).
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain the facility in accordance with Title 30 of the Texas Administrative Code (TAC) Chapter §305.125 (5).
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain facility.
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permitted effluent limits.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 317 317.6(b)(1)(D)
Description: Failure to maintain the Self Contained Breathing Apparatus (SCBA) in accordance with Title 30 of the Texas Administrative Code (TAC) Chapter §317.6(b)(1)(D).

6 Date: 07/31/2016 (1366832)
Classification: Moderate

Self Report? YES For Informational Purposes Only
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: 08/29/2016 (1358355)
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 317 317.6(b)(1)(D)
Description: Failure to maintain the Self Contained Breathing Apparatus (SCBA) in accordance with Title 30 of the Texas Administrative Code (TAC) Chapter §317.6(b)(1)(D).

8 Date: 04/30/2017 (1426542)
Classification: Moderate

Self Report? YES For Informational Purposes Only
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: 01/31/2018 (1487971)
Classification: Moderate

Self Report? YES For Informational Purposes Only
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

10 Date: 08/07/2018 (1486451)
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 217, SubChapter C 217.60(b)(1)
Description: Failed to provide watertight and gastight walls to the wet well superstructure.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 317 317.3(c)(2)
Description: Failure to achieve firm pumping capacity at the lift station.

Date: 08/27/2018 (1473064)

Classification: Minor

Self Report? NO

For Informational Purposes Only

Citation: 10590-002 OPERATIONAL REQUIREMENTS 1 OP
30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, after performing a flow accuracy check, it was noted that the percent error was 14.8%, not compliant within the 10% guidelines. The recorded flow was 379 gallons per minute (GPM) and the calculated flow was 445 GPM.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Oper. Reqs. No. 1 PERMIT

Description: Failure to at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the grit removal system was not operational during the inspection.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Oper. Reqs. No. 1 PERMIT

Description: Failure to at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the spring mechanism for the South clarifier skimmer arm was broken and arm was not operational. Additionally, scum, floating sludge, and grit was observed in the treatment unit.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Interim Eff. Lim. & Mon. Reqs. No. 4 PERMIT

Description: Failure to prevent the unauthorized discharge of floating solids. Specifically, grit was observed throughout the chlorine contact chamber and was discharged through the effluent flume.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

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

Description: Failure to properly dispose of sludge. Specifically, approximately 100 cubic yards of 8-month old dried sludge was being stored in a warehouse located adjacent to the sludge drying beds.

Classification: Minor

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 217, SubChapter C 217.59(b)(2)

Description: Failure to provide a lift station with an intruder-resistant fence. Specifically, Lift Station Number 16 did not have the required three strands of barbed wire along the top of the 6-foot fencing.

Classification: Minor

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 217, SubChapter C 217.61(c)

Description: Failure to provide lift station with two pumps. Specifically, one of the two pumps were not operating at Lift Station Number 16.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter D 305.63(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions No. 4.c. PERMIT

Description: Failure to submit a new application at least 180 days before the expiration date of the effective permit. Specifically, the permit renewal application was received by the TCEQ Applications Review and Processing Team of the Water Quality Division on June 27, 2018 and the permit expired on July 1, 2018.

Classification: Minor

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Other Reqs. No. 9 PERMIT
 Description: Failure to comply with all permit conditions. Specifically, the regulated entity did not follow the schedule of activities for the attainment of the Whole Effluent Toxicity (WET) limitations required by the permit. A WET compliance schedule plan was not developed and submitted to the TCEQ Standards and Implementation Team within 90 days of permit issuance. Quarterly progress reports regarding WET testing were not submitted to the TCEQ Standards and Implementation Team with copies sent to the Uni
 Classification: Minor

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Other Reqs. No. 10 PERMIT
 Description: Failure to comply with all permit conditions. Specifically, the TCEQ Wastewater Permitting Section did not receive a summary transmittal letter within 60 days of permit issuance (due by March 16, 2015), in accordance with the requirements of 30 TAC § 217.6(c).

12* Date: 04/30/2020 (1661325)
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 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

13* Date: 05/31/2020 (1667852)
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 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

14* Date: 06/30/2020 (1674800)
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 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

* NOVs applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

Appendix B
All Investigations Conducted During Component Period October 27, 2015 and October 27, 2020

(1297727)
 Item 1 October 31, 2015** For Informational Purposes Only

(1303174)
 Item 2 December 02, 2015** For Informational Purposes Only

(1310160)
 Item 3* December 28, 2015** For Informational Purposes Only

(1316924)
 Item 4* January 25, 2016** For Informational Purposes Only

(1305519)
 Item 5 February 02, 2016** For Informational Purposes Only

(1326286)
 Item 6* February 25, 2016** For Informational Purposes Only

(1333043)

Item 7	March 22, 2016**	For Informational Purposes Only (1340181)
Item 8	April 26, 2016**	For Informational Purposes Only (1281255)
Item 9	May 06, 2016**	For Informational Purposes Only (1346992)
Item 10*	May 16, 2016**	For Informational Purposes Only (1353420)
Item 11*	June 20, 2016**	For Informational Purposes Only (1360395)
Item 12*	July 18, 2016**	For Informational Purposes Only (1366832)
Item 13	August 29, 2016**	For Informational Purposes Only (1373528)
Item 14*	September 21, 2016**	For Informational Purposes Only (1379703)
Item 15*	October 24, 2016**	For Informational Purposes Only (1358355)
Item 16	October 26, 2016**	For Informational Purposes Only (1385648)
Item 17*	November 17, 2016**	For Informational Purposes Only (1391779)
Item 18*	December 16, 2016**	For Informational Purposes Only (1398406)
Item 19*	January 24, 2017**	For Informational Purposes Only (1390198)
Item 20*	February 13, 2017**	For Informational Purposes Only (1405306)
Item 21*	February 14, 2017**	For Informational Purposes Only (1412381)
Item 22*	March 17, 2017**	For Informational Purposes Only (1418886)
Item 23*	April 11, 2017**	For Informational Purposes Only (1426542)
Item 24	May 18, 2017**	For Informational Purposes Only (1432542)
Item 25*	June 15, 2017**	For Informational Purposes Only (1441098)
Item 26*	July 12, 2017**	For Informational Purposes Only (1444776)
Item 27*	August 10, 2017**	For Informational Purposes Only (1451366)
Item 28*	September 12, 2017**	For Informational Purposes Only

Item 29*	October 16, 2017**	(1457242) For Informational Purposes Only
Item 30*	November 16, 2017**	(1462690) For Informational Purposes Only
Item 31*	December 14, 2017**	(1469091) For Informational Purposes Only
Item 32	February 16, 2018**	(1487971) For Informational Purposes Only
Item 33*	March 13, 2018**	(1491658) For Informational Purposes Only
Item 34*	April 12, 2018**	(1494907) For Informational Purposes Only
Item 35*	May 11, 2018**	(1501860) For Informational Purposes Only
Item 36*	June 15, 2018**	(1508969) For Informational Purposes Only
Item 37*	July 13, 2018**	(1515286) For Informational Purposes Only
Item 38*	August 16, 2018**	(1521336) For Informational Purposes Only
Item 39	August 24, 2018**	(1473064) For Informational Purposes Only
Item 40*	September 18, 2018**	(1528518) For Informational Purposes Only
Item 41*	October 10, 2018**	(1534855) For Informational Purposes Only
Item 42*	November 09, 2018**	(1542709) For Informational Purposes Only
Item 43*	December 11, 2018**	(1546451) For Informational Purposes Only
Item 44	January 15, 2019**	(1533245) For Informational Purposes Only
Item 45*	February 08, 2019**	(1563435) For Informational Purposes Only
Item 46	February 22, 2019**	(1539618) For Informational Purposes Only
Item 47*	March 13, 2019**	(1563436) For Informational Purposes Only
Item 48*	April 09, 2019**	(1573075) For Informational Purposes Only
Item 49*	April 16, 2019**	(1548527) For Informational Purposes Only

		(1585750)
Item 50*	May 10, 2019**	For Informational Purposes Only
		(1585751)
Item 51*	June 14, 2019**	For Informational Purposes Only
		(1594431)
Item 52*	July 15, 2019**	For Informational Purposes Only
		(1600724)
Item 53*	September 04, 2019**	For Informational Purposes Only
		(1607639)
Item 54*	September 13, 2019**	For Informational Purposes Only
		(1614509)
Item 55*	October 16, 2019**	For Informational Purposes Only
		(1620298)
Item 56*	November 07, 2019**	For Informational Purposes Only
		(1627647)
Item 57*	December 11, 2019**	For Informational Purposes Only
		(1635278)
Item 58*	December 12, 2019**	For Informational Purposes Only
		(1641893)
Item 59*	February 10, 2020**	For Informational Purposes Only
		(1648407)
Item 60*	March 17, 2020**	For Informational Purposes Only
		(1654759)
Item 61*	March 19, 2020**	For Informational Purposes Only
		(1674800)
Item 62	March 20, 2020**	For Informational Purposes Only
		(1661325)
Item 63	May 15, 2020**	For Informational Purposes Only
		(1667852)
Item 64	June 20, 2020**	For Informational Purposes Only
		(1681570)
Item 65*	August 18, 2020**	For Informational Purposes Only
		(1672750)
Item 66	October 01, 2020	For Informational Purposes Only
		(1672213)
Item 67	October 23, 2020	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LOS FRESNOS
RN102184207**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2020-1405-MWD-E

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 Los Fresnos (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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 802 South Nogal Street, in the City of Los Fresnos, Cameron 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. During a record review conducted on August 31, 2020, an investigator documented that the Respondent did not comply with permitted effluent limitations, as shown in the effluent violation table below.

	Ammonia Nitrogen		
	Daily Average Concentration	Daily Maximum Concentration	Daily Average Loading
Monitoring Period	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 25 lbs/day
April 2020	8.28	23	35.28
May 2020	17.88	27	79.22
June 2020	6.44	15	28.98

mg/L = milligrams per liter lbs/day = pounds per day

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010590002, Interim Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$38,812 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, \$38,812 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.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Los Fresnos, Docket No. 2020-1405-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 Conclusion of Law No. 4. The amount of \$38,812 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, within 260 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010590002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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:

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

with a copy to:

Water Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

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 Order Compliance Team at the address listed above.
8. 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 in this Order.
9. 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.

10. 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.
11. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
12. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

12/13/2021

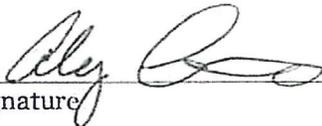
Date

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

7/27/2021

Date

Alejandro Flores

Name (Printed or typed)

Mayor

Title

Authorized Representative of
City of Los Fresnos

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: 2020-1405-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Los Fresnos
Penalty Amount:	Thirty-Eight Thousand Eight Hundred Twelve Dollars (\$38,812)
SEP Offset Amount:	Thirty-Eight Thousand Eight Hundred Twelve Dollars (\$38,812)
Type of SEP:	Compliance
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	Cameron 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 purchase two portable aerators and aerator parts for use at the Facility. The portable aerators will be utilized anytime a permanent aerator fails. Additionally, one of each part required for the operation of the aerator will be purchased to have on hand for immediate repair, reducing delays in getting the aerators back in operation. Continuous aeration will help ensure compliance with effluent exceedances, including Ammonia Nitrogen. Specifically, the SEP Offset Amount shall be used for portable aerators and aerator parts (the “Project”). The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations, including permits that may be required prior to commencement of the SEP.

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 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. Minimum Expenditure

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

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Tornado Aerator	1	\$9,906.95	Each	\$9,906.95
SB Drive Bearing	1	\$1,573.36	Each	\$1,573.36
NB Drive Bearing	1	\$3,064.30	Each	\$3,064.30
Non-Drive Bearing	1	\$2,008.46	Each	\$2,008.46
SB and NB Gear Box	1	\$5,801.40	Each	\$5,801.40
SB and NB Bushing Assembly	2	\$435.60	Each	\$871.20
Tornado Aerator	1	\$16,282	Each	\$16,282
Total				\$39,507.67

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 130 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 90 days after the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 130-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
130	Notice of SEP completion

B. Final Report

Within 130 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. A certified statement of SEP completion and document authentication;
5. Dated photographs of the purchased materials and supplies; and
6. 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:

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.