

**Executive Summary – Enforcement Matter – Case No. 60221**

**City of Wallis**

**RN101916245**

**Docket No. 2021-0014-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 Wallis MWD, 17403 Railroad Street, Wallis, Austin 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:** January 28, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$14,375

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

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$14,375

Name of SEP: WWTP Improvements (Compliance)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** November 5, 2020

**Date(s) of NOE(s):** December 11, 2020

**Executive Summary – Enforcement Matter – Case No. 60221**  
**City of Wallis**  
**RN101916245**  
**Docket No. 2021-0014-MWD-E**

***Violation Information***

Failed to comply with permitted effluent limitations for dissolved oxygen total suspended solids, *Escherichia coli*, and biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010765001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

***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 effluent limitations of TPDES Permit No. WQ0010765001, 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.

***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 175, (512) 239-3992

**Respondent:** The Honorable Dennis Diggs, Mayor, City of Wallis, P.O. Box 190, Wallis, Texas 77485

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	21-Dec-2020	<b>Screening</b>	29-Dec-2020	<b>EPA Due</b>	
	<b>PCW</b>	26-Aug-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Wallis
<b>Reg. Ent. Ref. No.</b>	RN101916245
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60221	<b>No. of Violations</b>	2
<b>Docket No.</b>	2021-0014-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Stephanie Frederick
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$12,500</b>
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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.

<b>Compliance History</b>	<b>15.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$1,875</b>
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<b>Notes</b>	Enhancement for three months of self-reported effluent violations.
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<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$4,869	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$38,805	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$14,375</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$14,375</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$14,375</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	<b>\$14,375</b>
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**Screening Date** 29-Dec-2020

**Docket No.** 2021-0014-MWD-E

**PCW**

**Respondent** City of Wallis

*Policy Revision 4 (April 2014)*

**Case ID No.** 60221

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN101916245

**Media** Water Quality

**Enf. Coordinator** Stephanie Frederick

### 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> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 15%

**>> 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.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 15%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 15%

Screening Date 29-Dec-2020

Docket No. 2021-0014-MWD-E

PCW

Respondent City of Wallis

Policy Revision 4 (April 2014)

Case ID No. 60221

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101916245

Media Water Quality

Enf. Coordinator Stephanie Frederick

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. WQ0010765001, 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

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	5.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded protective levels. Escherichia coli and total suspended solids were also considered. 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 \$23,750

\$1,250

Violation Events

Number of Violation Events 4 Number of violation days 124

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Four quarterly events are recommended for the quarters containing the months of August 2019 and January, March, and 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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,869

Violation Final Penalty Total \$5,750

This violation Final Assessed Penalty (adjusted for limits) \$5,750

## Economic Benefit Worksheet

**Respondent** City of Wallis  
**Case ID No.** 60221  
**Reg. Ent. Reference No.** RN101916245  
**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)	\$38,805	31-Aug-2019	4-Mar-2022	2.51	\$4,869	n/a	\$4,869

#### Notes for DELAYED costs

Estimated Other cost to install new Mercoid switches, adjust the level of the lift station, repair or perform maintenance on the pumps and chlorinator, conduct smoke testing 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

\$38,805

**TOTAL**

\$4,869

Screening Date 29-Dec-2020

Docket No. 2021-0014-MWD-E

PCW

Respondent City of Wallis

Policy Revision 4 (April 2014)

Case ID No. 60221

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101916245

Media Water Quality

Enf. Coordinator Stephanie Frederick

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010765001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			30.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded protective levels. Dissolved oxygen and total suspended solids were also considered. 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 \$17,500

\$7,500

Violation Events

Number of Violation Events 1 30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the month of June 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$8,625

This violation Final Assessed Penalty (adjusted for limits) \$8,625

# Economic Benefit Worksheet

**Respondent** City of Wallis  
**Case ID No.** 60221  
**Reg. Ent. Reference No.** RN101916245  
**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

Delayed Costs are captured on the Economic Benefit Worksheet for Violation 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 Wallis  
 TPDES Permit No. WQ0010765001  
 Docket No. 2021-0014-MWD-E  
 Case No. 60221

Effluent Violation Table							
Monitoring Period	BOD		<i>Escherichia coli</i>	DO	TSS		
	Daily Ave. Conc.	Daily Ave. Loading	Daily Ave. Conc.	Monthly Min. Conc.	Daily Ave. Conc.	Single Grab Conc.	Daily Ave. Loading
	Limit = 20 mg/L	Limit = 33 lbs/day	Limit = 126 CFU/100 ml	Limit = 6 mg/L	Limit = 20 mg/L	Limit = 65 mg/L	Limit = 33 lbs/day
August 2019	c	c	203.5	c	c	c	c
January 2020	23.67	c	c	c	c	c	c
March 2020	27.22	c	c	c	c	c	c
May 2020	20.6	c	c	c	36.98	111.2	c
June 2020	c	93.2	c	5	c	c	95.19

BOD = biochemical oxygen demand (5-day)  
 TSS = total suspended solids  
 Conc. = concentration  
 mg/L = milligrams per liter  
 CFU/100 ml = colony-forming units per 100 milliliters

DO = dissolved oxygen  
 Ave. = average  
 Min. = minimum  
 lbs/day = pounds per day  
 c = compliant

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# Compliance History Report

Compliance History Report for CN600627657, RN101916245, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN600627657, City of Wallis **Classification:** SATISFACTORY **Rating:** 1.00  
**Regulated Entity:** RN101916245, CITY OF WALLIS **Classification:** SATISFACTORY **Rating:** 1.00  
**Complexity Points:** 7 **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** 17403 Railroad Street, in the City of Wallis, Austin County, Texas  
**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
**WASTEWATER PERMIT** WQ0010765001 **WASTEWATER EPA ID** TX0025968

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

**Date Compliance History Report Prepared:** February 25, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 25, 2016 to February 25, 2021

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

**Name:** Stephanie Frederick

**Phone:** (512) 239-1001

## **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:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1	March 18, 2016	(1332091)	Item 15	May 04, 2017	(1425551)
Item 2	April 18, 2016	(1339246)	Item 16	June 05, 2017	(1431579)
Item 3	May 06, 2016	(1346054)	Item 17	July 08, 2017	(1440170)
Item 4	June 03, 2016	(1352487)	Item 18	August 04, 2017	(1443854)
Item 5	July 11, 2016	(1359457)	Item 19	October 13, 2017	(1456309)
Item 6	August 22, 2016	(1365896)	Item 20	November 09, 2017	(1461778)
Item 7	September 06, 2016	(1372588)	Item 21	December 19, 2017	(1468162)
Item 8	October 10, 2016	(1378763)	Item 22	January 08, 2018	(1474862)
Item 9	November 07, 2016	(1384728)	Item 23	February 13, 2018	(1487082)
Item 10	December 01, 2016	(1390860)	Item 24	March 14, 2018	(1490752)
Item 11	January 06, 2017	(1397475)	Item 25	April 12, 2018	(1494003)
Item 12	February 06, 2017	(1404363)	Item 26	May 10, 2018	(1500944)
Item 13	March 03, 2017	(1411462)	Item 27	June 14, 2018	(1508036)
Item 14	April 07, 2017	(1417956)	Item 28	July 18, 2018	(1514369)

Item 29	August 09, 2018	(1520420)	Item 38	November 15, 2019	(1619380)
Item 30	September 07, 2018	(1527591)	Item 39	December 23, 2019	(1626733)
Item 31	October 12, 2018	(1533951)	Item 40	January 15, 2020	(1634374)
Item 32	November 16, 2018	(1541783)	Item 41	May 05, 2020	(1647509)
Item 33	December 18, 2018	(1545555)	Item 42	June 11, 2020	(1660431)
Item 34	February 08, 2019	(1560662)	Item 43	August 18, 2020	(1680673)
Item 35	March 08, 2019	(1560663)	Item 44	September 20, 2020	(1687242)
Item 36	August 21, 2019	(1599821)	Item 45	October 15, 2020	(1693583)
Item 37	October 21, 2019	(1613565)			

**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: 03/31/2020 (1653849)  
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 (1666944)  
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 (1673894)  
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

## Component Appendices

### Appendix A

#### All NOV's Issued During Component Period 2/25/2016 and 2/25/2021

- 1 Date: 08/31/2017 (1450460) 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
- 2 Date: 02/23/2018 (1448957) Classification: Moderate  
Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 111, SubChapter B 111.201  
5C THSC Chapter 382 382.085(b)  
Description: Failure to comply with the general prohibition of outdoor burning. [B18]
- 3 Date: 12/31/2018 (1560664) 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
- 4 Date: 03/31/2019 (1572154) 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
- 5 Date: 04/30/2019 (1583915) 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
- 6 Date: 05/31/2019 (1583916) 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: 06/30/2019 (1593491) 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
- 8 Date: 08/31/2019 (1606723) 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: 01/31/2020 (1640990) 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: 03/31/2020 (1653849)

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

11\* Date: 05/31/2020 (1666944)

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

12\* Date: 06/30/2020 (1673894)

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 February 25, 2016 and February 25, 2021

(1332091)  
Item 1\* March 18, 2016\*\* For Informational Purposes Only

(1339246)  
Item 2\* April 18, 2016\*\* For Informational Purposes Only

(1346054)  
Item 3\* May 06, 2016\*\* For Informational Purposes Only

(1352487)  
Item 4\* June 03, 2016\*\* For Informational Purposes Only

(1359457)  
Item 5\* July 11, 2016\*\* For Informational Purposes Only

(1365896)  
Item 6\* August 22, 2016\*\* For Informational Purposes Only

(1372588)  
Item 7\* September 06, 2016\*\* For Informational Purposes Only

(1378763)  
Item 8\* October 10, 2016\*\* For Informational Purposes Only

(1384728)  
Item 9\* November 07, 2016\*\* For Informational Purposes Only

(1390860)  
Item 10\* December 01, 2016\*\* For Informational Purposes Only

(1397475)

Item 11*	January 06, 2017**	For Informational Purposes Only (1404363)
Item 12*	February 06, 2017**	For Informational Purposes Only (1411462)
Item 13*	March 03, 2017**	For Informational Purposes Only (1417956)
Item 14*	April 07, 2017**	For Informational Purposes Only (1425551)
Item 15*	May 04, 2017**	For Informational Purposes Only (1431579)
Item 16*	June 05, 2017**	For Informational Purposes Only (1440170)
Item 17*	July 08, 2017**	For Informational Purposes Only (1443854)
Item 18*	August 04, 2017**	For Informational Purposes Only (1450460)
Item 19	September 20, 2017**	For Informational Purposes Only (1456309)
Item 20*	October 13, 2017**	For Informational Purposes Only (1461778)
Item 21*	November 09, 2017**	For Informational Purposes Only (1468162)
Item 22*	December 19, 2017**	For Informational Purposes Only (1474862)
Item 23*	January 08, 2018**	For Informational Purposes Only (1487082)
Item 24*	February 13, 2018**	For Informational Purposes Only (1490752)
Item 25*	March 14, 2018**	For Informational Purposes Only (1494003)
Item 26*	April 12, 2018**	For Informational Purposes Only (1480364)
Item 27	April 25, 2018**	For Informational Purposes Only (1500944)
Item 28*	May 10, 2018**	For Informational Purposes Only (1508036)
Item 29*	June 14, 2018**	For Informational Purposes Only (1514369)
Item 30*	July 18, 2018**	For Informational Purposes Only (1520420)
Item 31*	August 09, 2018**	For Informational Purposes Only (1527591)
Item 32*	September 07, 2018**	For Informational Purposes Only

Item 33*	October 12, 2018**	(1533951) For Informational Purposes Only
Item 34*	November 16, 2018**	(1541783) For Informational Purposes Only
Item 35*	December 18, 2018**	(1545555) For Informational Purposes Only
Item 36	January 15, 2019**	(1560664) For Informational Purposes Only
Item 37*	February 08, 2019**	(1560662) For Informational Purposes Only
Item 38*	March 08, 2019**	(1560663) For Informational Purposes Only
Item 39	May 06, 2019**	(1572154) For Informational Purposes Only
Item 40	May 17, 2019**	(1583915) For Informational Purposes Only
Item 41	June 27, 2019**	(1583916) For Informational Purposes Only
Item 42	July 23, 2019**	(1593491) For Informational Purposes Only
Item 43*	August 21, 2019**	(1599821) For Informational Purposes Only
Item 44	September 26, 2019**	(1606723) For Informational Purposes Only
Item 45*	October 21, 2019**	(1613565) For Informational Purposes Only
Item 46*	November 15, 2019**	(1619380) For Informational Purposes Only
Item 47*	December 23, 2019**	(1626733) For Informational Purposes Only
Item 48*	January 15, 2020**	(1634374) For Informational Purposes Only
Item 49	February 12, 2020**	(1640990) For Informational Purposes Only
Item 50*	May 05, 2020**	(1647509) For Informational Purposes Only
Item 51*	June 11, 2020**	(1660431) For Informational Purposes Only
Item 52	June 19, 2020**	(1666944) For Informational Purposes Only
Item 53	July 15, 2020**	(1673894) For Informational Purposes Only

Item 54*	August 18, 2020**	(1680673) For Informational Purposes Only
Item 55*	September 20, 2020	(1687242) For Informational Purposes Only
Item 56*	October 15, 2020	(1693583) For Informational Purposes Only
Item 57	December 15, 2020	(1686476) 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 WALLIS  
RN101916245**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-0014-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 Wallis (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 17403 Railroad Street in the City of Wallis, Austin 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 November 5, 2020, an investigator documented that the Respondent did not comply with permitted effluent limitations, as shown in the effluent violation table below.

Monitoring Period	BOD		<i>Escherichia coli</i>	DO	TSS		
	Daily Ave. Conc.	Daily Ave. Loading	Daily Ave. Conc.	Monthly Min. Conc.	Daily Ave. Conc.	Single Grab Conc.	Daily Ave. Loading
	Limit = 20 mg/L	Limit = 33 lbs/day	Limit = 126 CFU/100 ml	Limit = 6 mg/L	Limit = 20 mg/L	Limit = 65 mg/L	Limit = 33 lbs/day
August 2019	c	c	203.5	c	c	c	c
January 2020	23.67	c	c	c	c	c	c
March 2020	27.22	c	c	c	c	c	c
May 2020	20.6	c	c	c	36.98	111.2	c
June 2020	c	93.2	c	5	c	c	95.19

BOD = biochemical oxygen demand (5-day)  
TSS = total suspended solids  
Conc. = concentration  
mg/L = milligrams per liter  
CFU/100 ml = colony-forming units per 100 milliliters

DO = dissolved oxygen  
Ave. = average  
Min. = minimum  
lbs/day = pounds per day  
c = compliant

## 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. WQ0010765001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
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 \$14,375 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, \$14,375 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 Wallis, Docket No. 2021-0014-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 \$14,375 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 effluent limitations of TPDES Permit No. WQ0010765001, 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. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

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	<u>3/16/2022</u> 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	<u>23 DECEMBER 2021</u> Date
---	---------------------------------

<u>DENNIS L. DIGGS</u> Name (Printed or typed) Authorized Representative of City of Wallis	<u>MAYOR</u> Title
---	-----------------------

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

**Attachment A**

**Docket Number: 2021-0014-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Wallis
<b>Penalty Amount:</b>	Fourteen Thousand Three Hundred Seventy-Five Dollars (\$14,375)
<b>SEP Offset Amount:</b>	Fourteen Thousand Three Hundred Seventy-Five Dollars (\$14,375)
<b>Type of SEP:</b>	Compliance
<b>Project Name:</b>	<i>WWTP Improvements</i>
<b>Location of SEP:</b>	Austin County

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

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

**1. Project Description**

**A. Project**

Respondent shall hire a contractor to diagnose the cause of effluent exceedances at the Facility. The contractor will purchase and install new Mercoid switches and adjust the level of the main lift station. The existing switches that maintain the level of influent held in the lift station were not functioning as designed. The Contractor will also re-wire the lift station pumps to maintain a constant low flow into the Facility during normal operations. The pumps were not in proper sequence to maintain a constant flow into the Facility. The contractor will also perform maintenance on the chlorinator. The controller, hydro flowmeter, recorder, and valve will be recalibrated. The contractor will also perform inspections and any needed repairs to all the lift station pumps at the Facility. The contractor will also perform smoke testing of the collection system to identify and reduce inflow and infiltration to help reduce the amount of water entering the system. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: diagnosis, Mercoid switches, lift station leveling, pump inspection, re-wiring, and repairs, chlorinator maintenance, and smoke testing (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations, including permits that may be 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
Contractor Diagnoses	1	\$666.25	Lump Sum	\$666.25
Mercoid Switches/Power Supply Installation and Pump Repair/Leveling/Re-wiring	1	\$3,670	Lump Sum	\$3,670
Chlorinator Maintenance	1	\$469.50	Lump Sum	\$469.50
Smoke Testing	1	\$20,000	Lump Sum	\$20,000
Pump Inspections/Repairs	1	\$14,000	Lump Sum	\$14,000
<b>Total</b>				<b>\$38,805.75</b>

**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**

<b>Days from Effective Order Date</b>	<b>Information Required</b>
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. Copies of proof of advertisement of invitation for bids, if applicable;
5. A certified statement of SEP completion and document authentication;
6. Detailed map showing specific location of the project site(s);
7. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
8. 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.