

Executive Summary – Enforcement Matter – Case No. 60669

City of Austwell

RN101608347

Docket No. 2021-0542-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Austwell Plant, located approximately 80 feet southwest of the intersection of Main Street and Stevens Street, Austwell, Refugio 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: March 3, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,687

Amount Deferred for Expedited Settlement: \$3,537

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$14,150

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: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 31, 2021

Date(s) of NOE(s): April 16, 2021

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City of Austwell
RN101608347
Docket No. 2021-0542-MWD-E

Violation Information

1. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the chlorination room fan and flow chart recorder were inoperable, and the clarifier had a buildup of algae on the weirs and in the outer ring channel [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011117001, Operational Requirements No. 1].
2. Failed to submit a complete Annual Sludge Report ("ASR") to the TCEQ by September 30th of each year. Specifically, the 2019 and 2020 ASRs were not submitted to the TCEQ [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0011117001, Section II, F. Reporting Requirements].
3. Failed to accurately report monitoring activities. Specifically, the total chlorine residual minimum and maximum concentration values were switched for the months of July and December 2019, and February and June 2020 [30 TEX. ADMIN. CODE § 305.125(1) and (12), and TPDES Permit No. WQ0011117001, Permit Conditions No. 1.a].
4. Failed to test the reduced-pressure backflow assembly annually. Specifically, the last date of testing was March 19, 2019 [30 TEX. ADMIN. CODE § 317.4(a)(8)].
5. Failed to maintain monitoring and reporting records at the Facility. Specifically, the dissolved oxygen meter calibration records were not recorded for the month of July 2019 and the individual sample analysis time for each sample collected was not being recorded [30 TEX. ADMIN. CODE §§ 305.125(1) and (11)(B) and 319.7(a) and TPDES Permit No. WQ0011117001, Monitoring and Reporting Requirements No. 3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By April 5, 2021, had the reduced-pressure backflow assembly tested by a licensed tester;
- b. By May 5, 2021, removed the build-up of algae in the clarifier;
- c. By May 5, 2021, repaired or replaced the flow chart recorder; and
- d. By May 26, 2021, submitted a complete ASR for 2019 and 2020.

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City of Austwell

RN101608347

Docket No. 2021-0542-MWD-E

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:

a. Within 30 days

i. Repair or replace the chlorination room fan;

ii. Submit updated discharge monitoring reports to reflect the actual sample results for July and December 2019 and February and June 2020; and

iii. Implement procedures and conduct employee training to ensure monitoring and reporting records are properly maintained, including dissolved oxygen meter calibration records and individual sample analysis times.

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

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, Enforcement Team 1, MC R-04, (817) 588-5865; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Adena Crider, SEP Coordinator, Litigation Division, MC 175, (512) 239-3992

Respondent: The Honorable Andrew Biery, Mayor, City of Austwell, P.O. Box 147, Austwell, Texas 77950

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	19-Apr-2021	Screening	22-Apr-2021	EPA Due	
	PCW	5-Aug-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Austwell
Reg. Ent. Ref. No.	RN101608347
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60669	No. of Violations	6
Docket No.	2021-0542-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$19,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Adjustment	Subtotals 2, 3, & 7	\$962
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$2,525
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$577	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,900	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,687
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$17,687
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,687
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,537
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$14,150
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Screening Date 22-Apr-2021

Docket No. 2021-0542-MWD-E

PCW

Respondent City of Austwell

Policy Revision 5 (January 28, 2021)

Case ID No. 60669

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101608347

Media Water Quality

Enf. Coordinator Cheryl Thompson

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>)	1	5%
	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 22-Apr-2021
Respondent City of Austwell
Case ID No. 60669
Reg. Ent. Reference No. RN101608347
Media Water Quality
Enf. Coordinator Cheryl Thompson

Docket No. 2021-0542-MWD-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011117001, Operational Requirements No. 1

Violation Description

Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the chlorination room fan was inoperable.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 22

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended, from the March 31, 2021 investigation date to the April 22, 2021 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$232

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent City of Austwell
Case ID No. 60669
Reg. Ent. Reference No. RN101608347
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	\$500	30-Jul-2015	18-Mar-2022	6.64	\$11	\$221	\$232
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Equipment cost to repair/replace the chlorination room fan. Date Required is the date the violation was initially documented. Final Date is the estimated compliance date.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$232

Screening Date 22-Apr-2021 **Docket No.** 2021-0542-MWD-E **PCW**
Respondent City of Austwell *Policy Revision 5 (January 28, 2021)*
Case ID No. 60669 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101608347
Media Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0011117001, Section II, F. Reporting Requirements
Violation Description Failed to submit a complete annual sludge report ("ASR") to the TCEQ by September 30th of each year. Specifically, the 2019 and 2020 ASRs were not submitted to the TCEQ.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 2 570 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Two single events are recommended, one for each ASR not submitted.

Good Faith Efforts to Comply 10.0% Reduction \$500

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes: The Respondent achieved compliance on May 26, 2021.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$8 **Violation Final Penalty Total** \$4,750

This violation Final Assessed Penalty (adjusted for limits) \$4,750

Economic Benefit Worksheet

Respondent City of Austwell
Case ID No. 60669
Reg. Ent. Reference No. RN101608347
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	\$100	30-Sep-2019	26-May-2021	1.65	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Record Keeping cost to submit a complete ASR for 2019 and 2020 (\$50 for each report). Date Required is the date the 2019 ASR was due. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$8

Screening Date 22-Apr-2021 **Docket No.** 2021-0542-MWD-E **PCW**
Respondent City of Austwell *Policy Revision 5 (January 28, 2021)*
Case ID No. 60669 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101608347
Media Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (12) and TPDES Permit No. WQ0011117001, Permit Conditions No. 1.a

Violation Description Failed to accurately report monitoring activities. Specifically, the total chlorine residual minimum and maximum concentration values were switched for the months of July and December 2019, and February and June 2020.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				x	1.0%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 4 22 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Four single events are recommended, one for each inaccurate discharge monitoring report ("DMR").

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$13 **Violation Final Penalty Total** \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent City of Austwell
Case ID No. 60669
Reg. Ent. Reference No. RN101608347
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	20-Aug-2019	18-Mar-2022	2.58	\$13	n/a	\$13
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to submit updated DMRs to reflect the actual sample results for July and December 2019 and February and June 2020 (\$25 per DMR). Date Required is the DMR due date for the first month of noncompliance. 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	\$100	TOTAL	\$13
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Screening Date 22-Apr-2021 **Docket No.** 2021-0542-MWD-E **PCW**
Respondent City of Austwell *Policy Revision 5 (January 28, 2021)*
Case ID No. 60669 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101608347
Media Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 317.4(a)(8)
Violation Description Failed to test the reduced-pressure backflow assembly ("RPBA") annually. Specifically, the last date of testing was March 19, 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 382 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$7,500

Two annual events are recommended, from the March 19, 2020 date the RPBA test was due to the April 5, 2021 compliance date.

Good Faith Efforts to Comply 25.0% Reduction \$1,875

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance on April 5, 2021.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$263 **Violation Final Penalty Total** \$6,000

This violation Final Assessed Penalty (adjusted for limits) \$6,000

Economic Benefit Worksheet

Respondent City of Austwell
Case ID No. 60669
Reg. Ent. Reference No. RN101608347
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$250	31-Mar-2021	5-Apr-2021	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to test the RPBA at the Facility by a licensed tester. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$250	19-Mar-2020	5-Apr-2021	1.05	\$13	\$250	\$263

Notes for AVOIDED costs

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

Approx. Cost of Compliance

\$500

TOTAL

\$263

Screening Date 22-Apr-2021 **Docket No.** 2021-0542-MWD-E **PCW**
Respondent City of Austwell *Policy Revision 5 (January 28, 2021)*
Case ID No. 60669 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101608347
Media Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0011117001, Operational Requirements No. 1

Violation Description Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the flow chart recorder was inoperable and the clarifier had a buildup of algae on the weirs and in the outer ring channel.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential			x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 2 22 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,500

Two single events are recommended.

Good Faith Efforts to Comply 10.0% Reduction \$150

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes The Respondent achieved compliance on May 5, 2021.

Violation Subtotal \$1,350

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$53 **Violation Final Penalty Total** \$1,425

This violation Final Assessed Penalty (adjusted for limits) \$1,425

Economic Benefit Worksheet

Respondent City of Austwell
Case ID No. 60669
Reg. Ent. Reference No. RN101608347
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$500	26-Aug-2020	5-May-2021	0.69	\$1	\$23	\$24
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)	\$100	30-Jul-2015	5-May-2021	5.77	\$29	n/a	\$29

Notes for DELAYED costs

Estimated Equipment cost to remove buildup of algae in the clarifier. Date Required is the date the violation was intially documented. Final Date is the date of compliance.

Estimated Equipment cost to repair/replace the flow chart recorder. Date Required is the date the violation was intially documented. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$600	TOTAL	\$53
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Screening Date 22-Apr-2021 **Docket No.** 2021-0542-MWD-E **PCW**
Respondent City of Austwell *Policy Revision 5 (January 28, 2021)*
Case ID No. 60669 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101608347
Media Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (11)(B) and 319.7(a) and TPDES Permit No. WQ0011117001, Monitoring and Reporting Requirements No. 3

Violation Description Failed to maintain monitoring and reporting records at the Facility. Specifically, the dissolved oxygen meter calibration records were not recorded for the month of July 2019 and the individual sample analysis time for each sample collected was not being recorded.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				x	1.0%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 2 22 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

Two single events are recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$8 **Violation Final Penalty Total** \$525

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

Economic Benefit Worksheet

Respondent City of Austwell
Case ID No. 60669
Reg. Ent. Reference No. RN101608347
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	\$100	26-Aug-2020	18-Mar-2022	1.56	\$8	n/a	\$8
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Training/Sampling cost to implement procedures and conduct employee training to ensure monitoring and reporting records are properly maintained, including dissolved oxygen meter calibration records and individual sample analysis times. Date Required is the date the violation was initially documented. Final Date is the estimated compliance date.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$8

The TCEQ is committed to accessibility.

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



Compliance History Report

Compliance History Report for CN600342307, RN101608347, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600342307, City of Austwell **Classification:** SATISFACTORY **Rating:** 0.68
Regulated Entity: RN101608347, CITY OF AUSTWELL PLANT **Classification:** SATISFACTORY **Rating:** 1.46
Complexity Points: 7 **Repeat Violator:** NO
CH Group: 08 - Sewage Treatment Facilities
Location: Approximately 80 feet southwest of the intersection of Main Street and Stevens Street, Austwell, in Refugio County, Texas
TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

WASTEWATER PERMIT WQ0011117001 **WASTEWATER EPA ID** TX0048038
WASTEWATER LICENSING LICENSE WQ0011117001

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

Date Compliance History Report Prepared: April 19, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 19, 2016 to April 19, 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	May 19, 2016	(1346312)	Item 13	July 19, 2017	(1440420)
Item 2	June 20, 2016	(1352744)	Item 14	July 27, 2017	(1431845)
Item 3	August 22, 2016	(1366151)	Item 15	August 18, 2017	(1444101)
Item 4	September 19, 2016	(1372836)	Item 16	October 15, 2017	(1450705)
Item 5	October 19, 2016	(1379019)	Item 17	November 30, 2017	(1462028)
Item 6	November 18, 2016	(1384974)	Item 18	December 21, 2017	(1468412)
Item 7	January 19, 2017	(1397728)	Item 19	January 18, 2018	(1475111)
Item 8	February 19, 2017	(1404616)	Item 20	February 19, 2018	(1487327)
Item 9	March 20, 2017	(1411708)	Item 21	March 19, 2018	(1491001)
Item 10	April 19, 2017	(1418211)	Item 22	May 11, 2018	(1494248)
Item 11	May 19, 2017	(1425799)	Item 23	June 19, 2018	(1508285)
Item 12	June 12, 2017	(1431844)			

Item 24	July 18, 2018	(1514617)	Item 37	October 30, 2019	(1613817)
Item 25	August 19, 2018	(1520673)	Item 38	December 03, 2019	(1619628)
Item 26	September 20, 2018	(1527841)	Item 39	December 17, 2019	(1626982)
Item 27	October 23, 2018	(1534198)	Item 40	January 17, 2020	(1634621)
Item 28	January 04, 2019	(1545803)	Item 41	February 19, 2020	(1641236)
Item 29	January 20, 2019	(1561413)	Item 42	March 18, 2020	(1647751)
Item 30	February 19, 2019	(1561411)	Item 43	April 18, 2020	(1654100)
Item 31	March 20, 2019	(1561412)	Item 44	May 19, 2020	(1660672)
Item 32	May 17, 2019	(1584414)	Item 45	June 18, 2020	(1667192)
Item 33	June 27, 2019	(1584415)	Item 46	July 20, 2020	(1674144)
Item 34	July 19, 2019	(1593741)	Item 47	August 19, 2020	(1680917)
Item 35	August 19, 2019	(1600069)	Item 48	September 21, 2020	(1687488)
Item 36	September 19, 2019	(1606970)	Item 49	October 19, 2020	(1693827)

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: 08/31/2020 (1671905)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements; No.1; Pg. 13 PERMIT
- Description: Failed to ensure at all times that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements No. 1, Pg. 13 PERMIT
- Description: Failed to ensure at all times that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Report Reqs. Section F. No. 1-17, Pg. 27 PERMIT
- Description: Failed to submit the annual sludge report.
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(d)
Reporting Requirements; No. 1, Pg. 5 PERMIT
- Description: Failed to provide monitoring results at the intervals specified in the permit.
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.1
Reporting Requirements; No. 2(a), Pg. 5 PERMIT
- Description: Failed to accurately complete the discharge monitoring reports (DMRs).
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring Requirements No. 5, Pg. 6 PERMIT
- Description: Failed to calibrate the flow meter at least annually to ensure accuracy.
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 317 317.4(a)(8)
- Description: Failed to test the backflow prevention device (RPBA) annually.
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(c)
Reporting Reqs No. 3(b), Pg. 6 PERMIT
- Description: Failed to maintain all monitoring and reporting records.
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(c)
Reporting Reqs No. 3(c) PERMIT
- Description: Failed to maintain all monitoring and reporting records.
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
30 TAC Chapter 319, SubChapter A 319.9(d)
Monitor and Report Reqs No. 2(a). Pg. 5 PERMIT
- Description: Failed to assure the quality of all measurements through the use of blanks, standards, duplicate analyses, and spikes.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF AUSTWELL
RN101608347

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-0542-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Austwell (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 80 feet southwest of the intersection of Main Street and Stevens Street in Austwell, Refugio County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$17,687 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$3,537 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$14,150 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. By April 5, 2021, had the reduced-pressure backflow assembly ("RPBA") tested by a licensed tester;
 - b. By May 5, 2021, removed the build-up of algae in the clarifier;
 - c. By May 5, 2021, repaired or replaced the flow chart recorder; and
 - d. By May 26, 2021, submitted a complete Annual Sludge Report ("ASR") for 2019 and 2020.

II. ALLEGATIONS

During a record review conducted for the Facility on March 31, 2021, an investigator documented that the Respondent:

1. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011117001, Operational Requirements No. 1. Specifically, the chlorination room fan and flow chart recorder were inoperable, and the clarifier had a buildup of algae on the weirs and in the outer ring channel.
2. Failed to submit a complete ASR to the TCEQ by September 30th of each year, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0011117001, Section II, F. Reporting Requirements. Specifically, the 2019 and 2020 ASRs were not submitted to the TCEQ.
3. Failed to accurately report monitoring activities, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (12), and TPDES Permit No. WQ0011117001, Permit Conditions No. 1.a.

Specifically, the total chlorine residual minimum and maximum concentration values were switched for the months of July and December 2019, and February and June 2020.

4. Failed to test the RPBA annually, in violation of 30 TEX. ADMIN. CODE § 317.4(a)(8). Specifically, the last date of testing was March 19, 2019.
5. Failed to maintain monitoring and reporting records at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (11)(B) and 319.7(a) and TPDES Permit No. WQ0011117001, Monitoring and Reporting Requirements No. 3. Specifically, the dissolved oxygen meter calibration records were not recorded for the month of July 2019 and the individual sample analysis time for each sample collected was not being recorded.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Austwell, Docket No. 2021-0542-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete an SEP as set forth in Section I, Paragraph No. 4. The amount of \$14,150 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Repair or replace the chlorination room fan;
 - ii. Submit updated discharge monitoring reports to reflect the actual sample results for July and December 2019 and February and June 2020; and

- iii. Implement procedures and conduct employee training to ensure monitoring and reporting records are properly maintained, including dissolved oxygen meter calibration records and individual sample analysis times.
- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

Enforcement Division, R-04
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

with a copy to:

Water Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
500 North Shoreline Boulevard, Suite 500
Corpus Christi, Texas 78401-0318

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent

shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.

8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

4/12/2023

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

12-29-2022

Date

Andrew Bierly

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

MAYOR

Title

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

Attachment A

Docket Number: 2021-0542-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Austwell
Penalty Amount:	Fourteen Thousand One Hundred Fifty Dollars (\$14,150)
SEP Offset Amount:	Fourteen Thousand One Hundred Fifty Dollars (\$14,150)
Type of SEP:	Compliance
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	Refugio 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 purchase and install two 32 kilowatt generators with automated transfer switches at the Facility. The SEP will provide a power supply that will switch automatically in the event of a power outage at the Facility. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: generators and transfer switches (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any invitation for bids, 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 preventing wastewater discharges being released into the environment during the collection process.

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

C. Minimum Expenditure

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

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
32 kW Generac Generators	2	\$14,500	Each	\$29,000
200 AMP ATS 480V Transfer Switches	2	\$1,940	Each	\$3,880
Shipping	1	\$800	Lump Sum	\$800
Total				\$33,680

2. Performance Schedule

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

3. Records and Reporting

A. Progress Report

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

Reporting Schedule

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

B. Final Report

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

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
4. Copies of proof of advertisement of invitation for bids, if applicable;
5. A certified statement of SEP completion and document authentication;
6. Detailed map showing specific location of the project site(s);
7. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
8. Equipment logs showing the hours the equipment was utilized on the project, if applicable;
9. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
10. 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.