

Executive Summary – Enforcement Matter – Case No. 60745

Town of Anthony

RN102805603

Docket No. 2021-0855-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:

Anthony Sewage Treatment Plant, located approximately 0.35 mile southwest of the intersection of State Highway 20 and Wildcat Drive, Anthony, El Paso County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 30, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$114,062

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$114,062

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: January 29, 2021

Date(s) of NOE(s): April 22, 2021

Executive Summary – Enforcement Matter – Case No. 60745

Town of Anthony

RN102805603

Docket No. 2021-0855-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for ph 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. WQ0015414001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].

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 220 days, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0015414001, 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: Ellen Ojeda, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2581; 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 Benjamin Romero, Mayor, Town of Anthony, 401 Wildcat Drive, Anthony, Texas 79821

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	26-Apr-2021			
	PCW	14-Jun-2021	Screening	27-Apr-2021	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Town of Anthony				
Reg. Ent. Ref. No.	RN102805603				
Facility/Site Region	6-El Paso	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	60745	No. of Violations	2		
Docket No.	2021-0855-MWD-E	Order Type	Findings		
Media Program(s)	Water Quality	Government/Non-Profit	Yes		
Multi-Media		Enf. Coordinator	Ellen Ojeda		
		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	\$91,250
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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	25.0%	Adjustment	Subtotals 2, 3, & 7	\$22,812
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Notes	Enhancement for five months of self-reported effluent 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	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$16,150	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$148,856	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$114,062
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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	\$114,062
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$114,062
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$114,062
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Screening Date 27-Apr-2021

Docket No. 2021-0855-MWD-E

PCW

Respondent Town of Anthony

Policy Revision 5 (January 28, 2021)

Case ID No. 60745

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102805603

Media Water Quality

Enf. Coordinator Ellen Ojeda

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>)	5	25%
	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) 25%

>> 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 five months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date	27-Apr-2021	Docket No.	2021-0855-MWD-E	PCW
Respondent	Town of Anthony			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60745			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN102805603			
Media	Water Quality			
Enf. Coordinator	Ellen Ojeda			

Violation Number

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. WQ0015414001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3

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

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="50.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. pH was also considered. Human health or the environment has been exposed to pollutants that exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Seven monthly events are recommended for the monitoring periods including April 2020, May 2020, June 2020, July 2020, August 2020, September 2020, and October 2020.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Town of Anthony
Case ID No. 60745
Reg. Ent. Reference No. RN102805603
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)	\$148,856	30-Apr-2020	1-Jul-2022	2.17	\$16,150	n/a	\$16,150

Notes for DELAYED costs
 Actual cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility to return to compliance with the permitted effluent limitations. 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 \$148,856

TOTAL \$16,150

Screening Date 27-Apr-2021 **Docket No.** 2021-0855-MWD-E **PCW**
Respondent Town of Anthony *Policy Revision 5 (January 28, 2021)*
Case ID No. 60745 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN102805603
Media Water Quality
Enf. Coordinator Ellen Ojeda

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0015414001, 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	15.0%
	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 amount of pollutants exceeded levels protective of human health and the environment. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the quarter containing the month of March 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 \$3,750

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$4,688

This violation Final Assessed Penalty (adjusted for limits) \$4,688

Economic Benefit Worksheet

Respondent Town of Anthony
Case ID No. 60745
Reg. Ent. Reference No. RN102805603
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
 Actual Other cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations is captured in Economic Benefit Worksheet 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

Town of Anthony
Docket No. 2021-0855-MWD-E
TPDES Permit No. WQ0015414001

Effluent Violation Table

Month/Year	Biochemical Oxygen Demand (5-day)			pH
	Daily Average Concentration	Daily Maximum Concentration	Daily Average Loading	Monthly Minimum
	Limit= 20 mg/L	Limit= 45 mg/L	Limit= 94 lbs/day	Limit= 6 Standard Units
March 2020	c	69.4	c	c
April 2020	151	481	380	c
May 2020	487	642	1222.5	4.98
June 2020	515.2	1270	1374.9	c
July 2020	517.25	733	1397.69	c
August 2020	229.77	347	565.3	c
September 2020	576.52	990	1490.53	c
October 2020	736.5	889	1842	c

mg/L= milligrams per liter

lbs/day= pounds per day

c= compliant

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 CN600915573, RN102805603, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600915573, Town of Anthony **Classification:** SATISFACTORY **Rating:** 2.30

Regulated Entity: RN102805603, ANTHONY SEWAGE TREATMENT PLANT **Classification:** SATISFACTORY **Rating:** 3.00

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: LOCATED APPROXIMATELY 0.35 MILE SOUTHWEST OF THE INTERSECTION OF STATE HIGHWAY 20 AND WILDCAT DRIVE, ANTHONY, EL PASO COUNTY, TEXAS

TCEQ Region: REGION 06 - EL PASO

ID Number(s):
WASTEWATER PERMIT WQ0015414001 **WASTEWATER EPA ID** TX0136662
WASTEWATER LICENSING LICENSE WQ0010120001

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

Date Compliance History Report Prepared: August 16, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 16, 2016 to August 16, 2021

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Ellen Ojeda **Phone:** (512) 239-2581

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	August 29, 2016	(1366819)
Item 2	August 30, 2016	(1360381)
Item 3	September 16, 2016	(1374679)
Item 4	October 18, 2016	(1380844)
Item 5	November 18, 2016	(1386799)
Item 6	December 19, 2016	(1392926)
Item 7	January 18, 2017	(1399524)
Item 8	February 16, 2017	(1406463)
Item 9	March 20, 2017	(1413566)
Item 10	April 24, 2017	(1420009)
Item 11	May 17, 2017	(1427652)
Item 12	June 13, 2017	(1433676)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TOWN OF ANTHONY
RN102805603**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0855-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 Town of Anthony (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 approximately 0.35 mile southwest of the intersection of State Highway 20 and Wildcat Drive in Anthony, El Paso 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 for the Facility on January 29, 2021, an investigator documented that the Respondent did not comply with permitted effluent limitations, as shown in the effluent violation table below:

Effluent Violation Table				
Month/Year	Biochemical Oxygen Demand (5-day)			pH
	Daily Average Concentration	Daily Maximum Concentration	Daily Average Loading	Monthly Minimum
	Limit= 20 mg/L	Limit= 45 mg/L	Limit= 94 lbs/day	Limit= 6 Standard Units
March 2020	c	69.4	c	c
April 2020	151	481	380	c
May 2020	487	642	1222.5	4.98
June 2020	515.2	1270	1374.9	c
July 2020	517.25	733	1397.69	c
August 2020	229.77	347	565.3	c
September 2020	576.52	990	1490.53	c
October 2020	736.5	889	1842	c

mg/L= milligrams per liter
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. WQ0015414001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3.
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 \$114,062 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, \$114,062 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: Town of Anthony, Docket No. 2021-0855-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 II, Paragraph No. 4. The amount of \$114,062 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 220 days after the effective date of this Order, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0015414001, 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 detail 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:

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

with a copy to:

Water Section Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1212

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. 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



4/12/2023

For the Executive Director

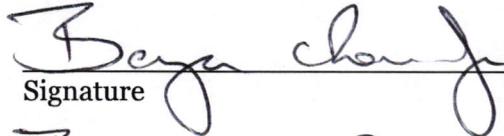
Date

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

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

3-9-2023

Date

Benjamin C. Gomez Jr

Name (Printed or typed)
Authorized Representative of
Town of Anthony

Mayer

Title

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

Attachment A

Docket Number: 2021-0855-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Town of Anthony
Penalty Amount:	One Hundred Fourteen Thousand Sixty-Two Dollars (\$114,062)
SEP Offset Amount:	One Hundred Fourteen Thousand Sixty-Two Dollars (\$114,062)
Type of SEP:	Compliance
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	El Paso 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 parts and repair existing rotating disc aerators at the Facility. Repairs will include replacement of bearings, gear box, and broken shafts on the rotating disc aerators, and replacement of the gear box on the clarifier. The SEP will improve treatment efficiency, allowing the Facility to meet permitted effluent requirements more consistently. Specifically, the SEP Offset Amount shall be used for rotating disc aerator repairs and clarifier repairs (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 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	Total
Clarifier Contactor Replacement	1	\$545.45
Grit Pumps Electrical Work	1	\$100
Gear Box Clarifier Removal/Rebuild	1	\$1,457.93
Gear Box Clarifier Repair	1	\$925.74
Aerator Rotor #1 Repair	1	\$49,500
Aerator Rotor #2 Repair	1	\$49,500
Gear Box Assembly Removal/Installation	1	46,827
Total		\$148,856.12

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 130 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 130-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Reporting Schedule

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

B. Final Report

Within 130 days after the effective date of the Agreed Order, or within 30 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
4. 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.