

Executive Summary – Enforcement Matter – Case No. 61165

City of Overton

RN102096203

Docket No. 2021-1054-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Overton WWTP, 1498 East Highway 850 (Henderson Street), Overton, Rusk County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 5, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$66,875

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$66,875

Name of SEP: WWTP and Lift Station Repairs (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): June 11, 2021 and September 2, 2021

Complaint Information: Alleged sewage was flowing out of the compromised wastewater collection line. Sewage smell was coming from the woods near the intersection of Warren Street and Highway 135.

Date(s) of Investigation: June 14, 2021 through June 28, 2021, August 10, 2021 and Septemeber 2, 2021 through September 8, 2021

Date(s) of NOE(s): August 6, 2021, August 30, 2021, and October 8, 2021

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City of Overton
RN102096203
Docket No. 2021-1054-MWD-E

Violation Information

1. Failed to prevent an unauthorized discharge of untreated sewage into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001, Permit Conditions No. 2.g].
2. Failed to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal [30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0010242001, Operational Requirements No. 1].
3. Failed to equip doors with panic hardware [30 TEX. ADMIN. CODE § 317.6(b)(1)(E)].
4. Failed to disinfect the effluent [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010242001, Effluent Limitations and Monitoring Requirements No. 2].
5. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0010242001, Permit Monitoring and Reporting Requirements No. 1].
6. Failed to prevent an unauthorized discharge of untreated sewage into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010242001, Permit Conditions No. 2.g].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The following corrective actions have been taken at the Facility:

- a. By June 16, 2021, the Respondent ceased the discharge of untreated sewage, cleaned the affected area, and repaired the broken collection line; and
- b. By September 8, 2021, the Respondent ceased the discharge of untreated sewage, flushed the creek to facilitate recovery, and repaired the broken collection line.

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:

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- i. Repair or replace the exterior door leading to the chlorination room and install panic hardware;
 - ii. Connect the chlorination tanks to the chlorine feed system;
 - iii. Remove sludge from the chlorine contact chamber;
 - iv. Remove the sludge that is flowing over the weir, algae from the clarifier, and the excess vegetation;
 - v. Repair or replace the clarifier arm;
 - vi. Begin maintaining the required minimum of 18 inches of freeboard in the aeration basin;
 - vii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and annual DMRs; and
 - viii. Submit the required monthly and annual DMRs for all monitoring periods from January 31, 2021 through June 31, 2021.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Monica Larina, Enforcement Division, Enforcement Team 1, MC R-14, (361) 881-6965; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Adena Crider, SEP Coordinator, Litigation Division, MC 175, (512) 239-0648

Respondent: The Honorable Curtis Gilbert, Mayor, City of Overton, 111 West North Street, Overton, Texas 75684

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	9-Aug-2021	Screening	10-Aug-2021	EPA Due	
	PCW	10-Aug-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Overton
Reg. Ent. Ref. No.	RN102096203
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61165	No. of Violations	4
Docket No.	2021-1054-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Monica Larina
		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	\$28,750
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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	30.0% Adjustment	Subtotals 2, 3, & 7	\$8,625
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Notes: Enhancement for two NOV's with the same/similar violations and one agreed order containing a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$3,125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$3,648	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$65,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$34,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$34,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$34,250
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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.

PAYABLE PENALTY	\$34,250
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Screening Date 10-Aug-2021
Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
Media Water Quality
Enf. Coordinator Monica Larina

Docket No. 2021-1054-MWD-E

PCW

Policy Revision 5 (January 28, 2021)
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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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> 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 two NOVs with the same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 10-Aug-2021
Respondent City of Overton
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Media Water Quality
Enf. Coordinator Monica Larina

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PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001, Permit Conditions No. 2(g)

Violation Description Failed to prevent an unauthorized discharge of untreated sewage into or adjacent to any water in the state. Specifically, a collection line broke, and untreated sewage discharged directly into a tributary of Little Rabbit Creek in Overton, Texas. Additionally, an accumulation of sludge solids and bloodworms and their larva were observed in the creek for approximately 1.36 miles from the point of discharge.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			50.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$12,500

\$12,500

Violation Events

Number of Violation Events 1 2 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$12,500

One monthly event is recommended from the June 14, 2021 investigation date to the June 16, 2021 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$3,125

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

Notes The Respondent achieved compliance by June 16, 2021, prior to the Notice of Enforcement dated August 6, 2021.

Violation Subtotal \$9,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$13,125

This violation Final Assessed Penalty (adjusted for limits) \$13,125

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
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)	\$25,000	14-Jun-2021	16-Jun-2021	0.01	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to repair the broken collection line and clean the affected area of untreated sewage. The Date Required is the first day of noncompliance, and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$25,000

TOTAL \$7

Screening Date 10-Aug-2021
Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
Media Water Quality
Enf. Coordinator Monica Larina

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PCW Revision February 11, 2021

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0010242001, Operational Requirements No. 1

Violation Description

Failed to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal. Specifically, the exterior door to the chlorination room was severely rusted, the chlorine contact basin contained approximately 0.5 foot of sludge below the total depth of the water, the aeration basin had six inches of freeboard instead of the required minimum of 18 inches, the clarifier arm was not operational, and sludge was flowing over the weirs. Additionally, the clarifier was full of algae, the Facility was overgrown with vegetation, preventing easy access to all treatment units.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the June 14, 2021 investigation date to the August 10, 2021 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" 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 City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
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)	\$10,000	14-Jun-2021	2-May-2023	1.88	\$941	n/a	\$941

Notes for DELAYED costs

Estimated delayed cost to remove sludge from the chlorine contact chamber, remove overgrown vegetation, repair or replace the clarifier arm, maintain the required minimum of 18 inches of freeboard in the aeration basin, clean the sludge flowing over the weirs and algae from the clarifiers, and repair or replace the exterior door to the chlorination room. The Date Required is the investigation date, 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 \$10,000

TOTAL \$941

Screening Date 10-Aug-2021
Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
Media Water Quality
Enf. Coordinator Monica Larina

Docket No. 2021-1054-MWD-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 317.6(b)(1)(E)

Violation Description Failed to equip doors with panic hardware. Specifically, the exterior door to the chlorination room was not equipped with panic hardware.

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 55 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the June 14, 2021 investigation date to the August 10, 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$450

Violation Final Penalty Total \$9,750

This violation Final Assessed Penalty (adjusted for limits) \$9,750

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	14-Jun-2021	2-Apr-2023	1.80	\$450	n/a	\$450

Notes for DELAYED costs

Estimated cost to install panic hardware. The Date Required is the investigation date, 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 \$5,000

TOTAL \$450

Screening Date 10-Aug-2021
Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
Media Water Quality
Enf. Coordinator Monica Larina

Docket No. 2021-1054-MWD-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010242001, Effluent Limitations and Monitoring Requirements No. 2

Violation Description

Failed to disinfect the effluent. Specifically, the chlorination tanks were not attached to the chlorine feed system, and no other sources of chlorination were observed.

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two monthly events are recommended from the June 14, 2021 investigation date to the August 10, 2021 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<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 City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
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)	\$25,000	14-Jun-2021	2-Apr-2023	1.80	\$2,250	n/a	\$2,250

Notes for DELAYED costs
 Estimated cost to connect the chlorination tanks to the chlorine feed system. The Date Required is the investigation date, 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 \$25,000

TOTAL \$2,250



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	7-Sep-2021	Screening	7-Sep-2021	EPA Due	
	PCW	7-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Overton
Reg. Ent. Ref. No.	RN102096203
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61165	No. of Violations	1
Docket No.	2021-1054-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Monica Larina
		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	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30.0% Adjustment	Subtotals 2, 3, & 7	\$4,500
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Notes: Enhancement for two NOV's with the same/similar violations and one agreed order containing a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$11
 Estimated Cost of Compliance: \$100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$19,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$19,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,500
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DEFERRAL	Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$19,500
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Screening Date 7-Sep-2021
Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
Media Water Quality
Enf. Coordinator Monica Larina

Docket No. 2021-1054-MWD-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> 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 two NOVs with the same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 7-Sep-2021
Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
Media Water Quality
Enf. Coordinator Monica Larina

Docket No. 2021-1054-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 (17) and 319.7(d) and Texas Pollutant Discharge Elimination System Permit No. WQ0010242001, Permit Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring reports were not submitted for the monthly monitoring periods of January 2021 through June 2021 by the 20th day of the following month.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10.0%

Matrix Notes: 100% of the rule requirements were not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events: 6 150 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$15,000

Six single events are recommended, one for each missed report.

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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$19,500

This violation Final Assessed Penalty (adjusted for limits) \$19,500

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
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)	\$100	20-Feb-2021	2-Apr-2023	2.11	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to submit the DMRs for the missed monthly monitoring periods, update the Facility's operational guidance, and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and annual DMRs. The Date Required is the earliest DMR due date, 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 \$100

TOTAL \$11



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	4-Oct-2021	Screening	5-Oct-2021	EPA Due	
	PCW	5-Oct-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Overton
Reg. Ent. Ref. No.	RN102096203
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61165	No. of Violations	1
Docket No.	2021-1054-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Monica Larina
		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	\$12,500
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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	30.0% Adjustment	Subtotals 2, 3, & 7	\$3,750
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Notes

Enhancement for two NOVs with the same/similar violations and one agreed order containing a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$3,125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$8
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$13,125
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,125
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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.

PAYABLE PENALTY	\$13,125
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Screening Date 5-Oct-2021
Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
Media Water Quality
Enf. Coordinator Monica Larina

Docket No. 2021-1054-MWD-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> 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 two NOVs with the same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 5-Oct-2021
Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
Media Water Quality
Enf. Coordinator Monica Larina

Docket No. 2021-1054-MWD-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010242001, Permit Conditions No. 2(g)

Violation Description Failed to prevent an unauthorized discharge of untreated sewage into or adjacent to any water in the state. Specifically, a collection line broke, and untreated sewage discharged directly into a tributary of Little Rabbit Creek in Overton, Texas. Additionally, an accumulation of sludge solids and slime were observed in the creek for approximately 0.6 mile from the point of discharge.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			50.0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$12,500

\$12,500

Violation Events

Number of Violation Events 1 6 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$12,500

One monthly event is recommended from the September 2, 2021 investigation date to the September 8, 2021 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$3,125

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

Notes The Respondent achieved compliance by September 8, 2021, prior to the Notice of Enforcement dated October 8, 2021.

Violation Subtotal \$9,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$13,125

This violation Final Assessed Penalty (adjusted for limits) \$13,125

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 61165
Reg. Ent. Reference No. RN102096203
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$10,000	2-Sep-2021	8-Sep-2021	0.02	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to cease the discharge, flush the creek to facilitate recovery, and repair the broken collection line. The Date Required is the investigation date, and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

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 CN600634877, RN102096203, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN600634877, City of Overton **Classification:** SATISFACTORY **Rating:** 6.67

Regulated Entity: RN102096203, CITY OF OVERTON WASTEWATER TREATMENT PLANT **Classification:** SATISFACTORY **Rating:** 6.67

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 1498 East Highway 850 (Henderson Street), City of Overton, Rusk County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s):

WASTEWATER PERMIT WQ0010242001

WASTEWATER EPA ID TX0104272

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: January 10, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 10, 2018 to January 10, 2023

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

Name: Alejandro Laje

Phone: (512) 239-2547

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 08/24/2021 ADMINORDER 2020-1461-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Eff. Lim. and Mon. Req. No. 1 PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

- Item 1 January 20, 2018 (1476039)
- Item 2 February 07, 2018 (1466936)
- Item 3 March 15, 2018 (1491883)
- Item 4 April 19, 2018 (1495174)
- Item 5 May 21, 2018 (1502094)
- Item 6 June 20, 2018 (1509218)
- Item 7 July 20, 2018 (1515523)
- Item 8 August 20, 2018 (1521573)

Item 9	September 20, 2018	(1528763)
Item 11	October 17, 2018	(1535085)
Item 12	October 29, 2018	(1528762)
Item 13	November 20, 2018	(1542940)
Item 14	December 12, 2018	(1546681)
Item 15	January 16, 2019	(1564152)
Item 16	February 19, 2019	(1564150)
Item 17	March 18, 2019	(1564151)
Item 18	June 20, 2019	(1586232)
Item 19	July 08, 2019	(1576419)
Item 20	July 19, 2019	(1594658)
Item 21	August 20, 2019	(1600959)
Item 22	September 19, 2019	(1607876)
Item 24	October 18, 2019	(1614741)
Item 25	November 15, 2019	(1620530)
Item 26	January 28, 2020	(1635507)
Item 27	March 20, 2020	(1648636)
Item 28	May 21, 2020	(1661550)
Item 29	June 22, 2020	(1668084)
Item 30	July 20, 2020	(1675031)
Item 31	September 21, 2020	(1681798)
Item 32	October 20, 2020	(1694736)
Item 33	November 16, 2020	(1716796)
Item 34	December 18, 2020	(1716797)
Item 35	January 20, 2021	(1716798)
Item 37	March 30, 2021	(1705045)
Item 38	September 07, 2021	(1739838)
Item 39	October 25, 2021	(1762929)
Item 40	January 04, 2022	(1782052)
Item 42	April 12, 2022	(1723706)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 04/08/2022 (1804588)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125
TWC Chapter 26 26.121
WQ0010187001 PERMIT
Description: Failure to prevent an unauthorized discharge of untreated sewage into or adjacent to a surface water in the state.

- 2 Date: 11/22/2022 (1854877)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 319, SubChapter A 319.11(d)
Description: Failure to maintain the flow measurement device as required.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.6(b)(1)(E)
Description: Failure to provide panic hardware on the exterior door of the chemical storage room.

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 OVERTON
RN102096203

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1054-MWD-E

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

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 1498 East Highway 850 (Henderson Street) in Overton, Rusk 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 an investigation at the Facility conducted on June 14, 2021 through June 28, 2021, an investigator documented that:
 - a. A collection line broke, and untreated sewage discharged directly into a tributary of Little Rabbit Creek in Overton, Texas. Additionally, an accumulation of sludge solids and bloodworms and their larvae were observed in the creek for approximately 1.36 miles from the point of discharge.
 - b. The exterior door to the chlorination room was severely rusted, the chlorine contact basin contained approximately 0.5 foot of sludge below the total depth of the water, the aeration basin had six inches of freeboard instead of the required minimum of 18 inches, the clarifier arm was not operational, and sludge was flowing over the weirs. Additionally, the clarifier was full of algae,

and the Facility was overgrown with vegetation, preventing easy access to all treatment units.

- c. The exterior door to the chlorination room was not equipped with panic hardware.
 - d. The chlorination tanks were not attached to the chlorine feed system, and no other sources of chlorination were observed.
3. During a record review for the Facility conducted on August 10, 2021, an investigator documented that the discharge monitoring reports ("DMRs") were not submitted for the monthly monitoring periods of January 2021 through June 2021 by the 20th day of the following month.
 4. During an investigation at the Facility conducted on September 2, 2021 through September 8, 2021, an investigator documented that a collection line broke, and untreated sewage discharged directly into a tributary of Little Rabbit Creek in Overton, Texas. Additionally, an accumulation of sludge solids and slime were observed in the creek for approximately 0.6 mile from the point of discharge.
 5. The Executive Director recognizes that the following corrective actions have been taken at the Facility:
 - a. By June 16, 2021, the Respondent ceased the discharge of untreated sewage, cleaned the affected area, and repaired the broken collection line.
 - b. By September 8, 2021, the Respondent ceased the discharge of untreated sewage, flushed the creek to facilitate recovery, and repaired the broken collection line.

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.a, the Respondent failed to prevent an unauthorized discharge of untreated sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010242001, Permit Conditions No. 2.g.
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0010242001, Operational Requirements No. 1.
4. As evidenced by Finding of Fact No. 2.c, the Respondent failed to equip doors with panic hardware, in violation of 30 TEX. ADMIN. CODE § 317.6(b)(1)(E).

5. As evidenced by Finding of Fact No. 2.d, the Respondent failed to disinfect the effluent, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010242001, Effluent Limitations and Monitoring Requirements No. 2.
6. As evidenced by Finding of Fact No. 3, the Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0010242001, Permit Monitoring and Reporting Requirements No. 1.
7. As evidenced by Finding of Fact No. 4, the Respondent failed to prevent an unauthorized discharge of untreated sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010242001, Permit Conditions No. 2.g.
8. 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.
9. An administrative penalty in the amount of \$66,875 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, \$66,875 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. 9 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Overton, Docket No. 2021-1054-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 the SEP as set forth in Section II, Paragraph No. 9. The amount of \$66,875 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 exterior door leading to the chlorination room and install panic hardware, in accordance with 30 TEX. ADMIN. CODE § 317.6(b)(1)(E);
 - ii. Connect the chlorination tanks to the chlorine feed system, in accordance with TPDES Permit No. WQ0010242001, Effluent Limitations and Monitoring Requirements No. 2;
 - iii. Remove sludge from the chlorine contact chamber, in accordance with 30 TEX. ADMIN. CODE § 305.125(5);
 - iv. Remove the sludge that is flowing over the weir, algae from the clarifier, and the excess vegetation, in accordance with 30 TEX. ADMIN. CODE § 305.125(5);
 - v. Repair or replace the clarifier arm, in accordance with 30 TEX. ADMIN. CODE § 305.125(5);
 - vi. Begin maintaining the required minimum of 18 inches of freeboard in the aeration basin, in accordance with 30 TEX. ADMIN. CODE § 305.125(5);
 - vii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and annual DMRs, in accordance with TPDES Permit No. WQ0010242001, Monitoring and Reporting Requirements No. 1; and
 - viii. Submit the required monthly and annual DMRs for all monitoring periods from January 31, 2021 through June 31, 2021, in accordance with TPDES Permit No. WQ0010242001, Monitoring and Reporting Requirements No. 1 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

- 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 No. 3.a. 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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. 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.
7. 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.
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. 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.
10. 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.
11. 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

1/24/2024

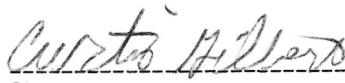
Date

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.

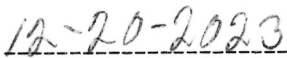
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- 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.

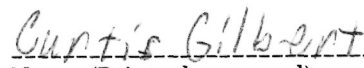
In addition, any falsification of any compliance documents may result in criminal prosecution.



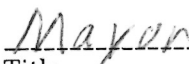
Signature



Date



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



Title

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

Attachment A

Docket Number: 2021-1054-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Overton
Penalty Amount:	\$66,875
SEP Offset Amount:	\$66,875
Type of SEP:	Compliance
Project Name:	<i>WWTP and Lift Station Repairs</i>
Location of SEP:	Rusk County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion the administrative Penalty Amount assessed in this Agreed Order in exchange for Respondent’s performance of 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 repair the RAS basin, purchase and install new pumps for the A&M and JLM Lift Stations, and repair or replace an auger at the Prison Lift Station. Specifically, the SEP Offset Amount shall be used for materials, supplies, labor, and equipment for hydromatic base repairs at the RAS basin, lift station pumps, and auger repair or replacement (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated below 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. The Commission’s approval and issuance of this Agreed Order shall not itself be construed to authorize any activity for which Respondent is required by statute or rule to obtain authorization from the Commission.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed below in Subsection C. Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including 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 above in Section 1, 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. Costs in excess of the SEP Offset Amount shall not be grounds to relieve Respondent of its obligations to perform this SEP.

Estimated Cost Schedule

Item	Total
RAS Basin Hydromatic Base Repair	\$3,134.60
Lift Station Package and Pump with Install	\$38,902.00
Lift Station Precision Submersible Pump	\$16,968.00
Auger Repair and Install	\$16,363.00
Total	\$75,367.60

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.

Executive Director (“ED”) staff may grant an extension to any deadline for Respondent’s performance of the SEP described herein, upon a written and substantiated showing of good cause. All requests for extensions must be made by Respondent and shall be made in writing to ED staff. Extensions are not effective until Respondent receives written approval from ED staff. The determination of what constitutes good cause rests solely with ED staff. Extension requests shall be sent to the SEP Coordinator by first class mail and electronic mail, at:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087
Email: sepreports@tceq.texas.gov

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 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 TCEQ, which shall include the following:

1. An 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. A detailed map showing the specific location of the project site(s);
7. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
8. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Submittals

Respondent shall submit all SEP reports and any additional information as requested to the SEP Coordinator at the address provided above.

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 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 above in Sections 2 through 4, the 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 the SEP Coordinator at the address provided above.

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 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 TCEQ or any other agency of the state or federal government.