

Executive Summary – Enforcement Matter – Case No. 61269

City of Athens

RN101702041

Docket No. 2021-1168-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Athens North WWTP, 1100 North Pinkerton Street, Athens, Henderson County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 18, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,750

Amount Deferred for Expedited Settlement: \$3,750

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$15,000

Name of SEP: WWTP Improvements (Compliance)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 24, 2021

Date(s) of NOE(s): August 17, 2021

Executive Summary – Enforcement Matter – Case No. 61269

City of Athens

RN101702041

Docket No. 2021-1168-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids, total residual chlorine, and carbonaceous 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. WQ0010143001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By August 17, 2022, the Respondent submitted documentation as proof of completion of the proposed SEP at the Facility.

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 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010143001, 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: Samantha Smith, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2099; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Carlos Flores, SEP Coordinator, Litigation Division, (512) 239-2512

Respondent: The Honorable Toni Clay, Mayor, City of Athens, 508 East Tyler Street, Athens, Texas 75751

Elizabeth Borstad, City Manager, City of Athens, 508 East Tyler Street, Athens, Texas 75751

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	23-Aug-2021	Screening	1-Sep-2021	EPA Due	5-Sep-2021
	PCW	7-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Athens
Reg. Ent. Ref. No.	RN101702041
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61269	No. of Violations	1
Docket No.	2021-1168-MWD-E	Order Type	1660
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	\$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	25.0%	Adjustment	Subtotals 2, 3, & 7	\$3,750
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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	\$3,116	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$25,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,750
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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	\$18,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,750
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,750
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$15,000
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Screening Date 1-Sep-2021**Docket No.** 2021-1168-MWD-E**PCW****Respondent** City of Athens

Policy Revision 5 (January 28, 2021)

Case ID No. 61269

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101702041**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 1-Sep-2021	Docket No. 2021-1168-MWD-E	PCW
Respondent City of Athens		<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No. 61269		<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No. RN101702041		
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 Permit No. WQ0010143001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

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"/>	<input type="text"/>	x	Percent <input type="text" value="30.0%"/>
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 carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. Total suspended solids and total residual chlorine were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two quarterly events are recommended for the quarters containing the months of April 2020, January 2021, February 2021, and March 2021.

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	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 Athens
Case ID No. 61269
Reg. Ent. Reference No. RN101702041
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	30-Apr-2020	27-Oct-2022	2.49	\$3,116	n/a	\$3,116
Notes for DELAYED costs	Estimated 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	\$25,000	TOTAL	\$3,116
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City of Athens
Docket No. 2021-1168-MWD-E
TPDES Permit No. WQ0010143001

Effluent Violation Table

Monitoring Period	C-BOD (5-day)		Total Residual Chlorine	Total Suspended Solids				
	Daily Average Conc.	Daily Maximum Conc.	Monthly Minimum Conc.	Daily Average Conc.	Daily Average Conc.	Daily Maximum Conc.	Daily Maximum Conc.	Daily Average Loading
	Limit= 10 mg/L	Limit= 25 mg/L	Limit= 1.0 mg/L	Limit= 15 mg/L	Limit= 20 mg/L	Limit= 40 mg/L	Limit= 45 mg/L	Limit= 128 lbs/day
April 2020	c	c	c	33.667	N/A	104	N/A	149.37
January 2021	N/A	N/A	c	N/A	34.163	N/A	91	N/A
February 2021	N/A	N/A	0.4	N/A	c	N/A	c	N/A
March 2021	10.644	35.6	c	29.111	N/A	69	N/A	143.16

c = compliant
Conc.= concentration
C-BOD (5-day) = carbonaceous biochemical oxygen demand (5-day)

mg/L = milligrams per liter
lbs/day= pounds per day
N/A = Not applicable

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 CN600705834, RN101702041, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600705834, City of Athens **Classification:** SATISFACTORY **Rating:** 1.44

Regulated Entity: RN101702041, CITY OF ATHENS NORTH WWTP **Classification:** SATISFACTORY **Rating:** 1.67

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

CH Group: 08 - Sewage Treatment Facilities

Location: 1100 North Pinkerton Street in Athens, Henderson County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s):
WASTEWATER LICENSING LICENSE WQ0010143001 **STORMWATER PERMIT** TXR05DM94
WASTEWATER PERMIT WQ0010143001 **WASTEWATER EPA ID** TX0025372

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: February 11, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 11, 2017 to February 11, 2022

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 (1411433)	March 13, 2017	Item 7 (1461749)	November 16, 2017	Item 13 (1508011)	June 13, 2018
Item 2 (1425522)	May 08, 2017	Item 8 (1468135)	December 13, 2017	Item 14	July 11, 2018
Item 3 (1431551)	June 12, 2017	Item 9 (1474833)	December 29, 2017	Item 15 (1514344)	September 13, 2018
Item 4 (1440143)	July 12, 2017	Item 10 (1466955)	February 09, 2018	Item 16 (1527565)	October 02, 2018
Item 5 (1443826)	August 14, 2017	Item 11 (1490724)	April 17, 2018	Item 17 (1533925)	October 15, 2018
Item 6 (1450433)	September 11, 2017	Item 12 (1500917)	May 14, 2018		

Item 18 (1541750)	November 16, 2018	(1653822)	Item 28	March 16, 2020	Item 38	March 30, 2021
Item 19 (1560582)	December 12, 2018	(1647482)	Item 29	June 11, 2020	Item 39	July 14, 2021
Item 20 (1572127)	March 08, 2019	(1666917)	Item 30	August 13, 2020	Item 40	August 10, 2021
Item 21 (1583861)	May 15, 2019	(1693556)	Item 31	September 09, 2020	Item 41	September 09, 2021
Item 22 (1613538)	August 27, 2019	(1687215)	Item 33	September 25, 2020	Item 42	September 29, 2021
Item 23 (1599794)	September 24, 2019	(1680646)	Item 34	November 16, 2020	Item 43	November 16, 2021
Item 24 (1619353)	November 15, 2019	(1713363)	Item 35	December 14, 2020	Item 44	November 24, 2021
Item 25 (1626706)	December 11, 2019	(1713364)	Item 36	January 08, 2021	Item 45	January 25, 2022
Item 26 (1640963)	February 10, 2020	(1679825)	Item 37	January 12, 2021	Item 46	February 10, 2022
Item 27	February 24, 2020	(1713365)				

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: 02/28/2021 (1726423)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 03/31/2021 (1726424)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 04/30/2021 (1740516)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 4 Date: 05/31/2021 (1740517)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 5 Date: 11/30/2021 (1790955)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ATHENS
RN101702041**

**§
§
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§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-1168-MWD-E**

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment facility located at 1100 North Pinkerton Street in Athens, Henderson County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$18,750 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$3,750 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$15,000 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with

all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by August 17, 2022, the Respondent submitted documentation as proof of completion of the proposed SEP at the Facility.

II. ALLEGATIONS

During a record review conducted on June 24, 2021, an investigator documented that 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. WQ0010143001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as shown in the effluent violation table below:

Effluent Violation Table								
Monitoring Period	C-BOD (5-day)		Total Residual Chlorine	Total Suspended Solids				
	Daily Average Conc.	Daily Maximum Conc.	Monthly Minimum Conc.	Daily Average Conc.	Daily Average Conc.	Daily Maximum Conc.	Daily Maximum Conc.	Daily Average Loading
	Limit= 10 mg/L	Limit= 25 mg/L	Limit= 1.0 mg/L	Limit= 15 mg/L	Limit= 20 mg/L	Limit= 40 mg/L	Limit= 45 mg/L	Limit= 128 lbs/day
April 2020	c	c	c	33.667	N/A	104	N/A	149.37
January 2021	N/A	N/A	c	N/A	34.163	N/A	91	N/A
February 2021	N/A	N/A	0.4	N/A	c	N/A	c	N/A
March 2021	10.644	35.6	c	29.111	N/A	69	N/A	143.16

c = compliant
Conc.= concentration
C-BOD (5-day) = carbonaceous biochemical oxygen demand (5-day)

mg/L = milligrams per liter
lbs/day= pounds per day
N/A = Not applicable

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Athens, Docket No. 2021-1168-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, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010143001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of

compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent and 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

3. All relief not expressly granted in this Order is denied.
4. 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.
5. 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.
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. 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.
8. 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.
9. 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



11/9/2023

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

Date

Elizabeth Borstad

10/9/2023
City Manager

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

Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

Attachment A

Docket Number: 2021-1168-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Athens
Penalty Amount:	Fifteen Thousand Dollars (\$15,000)
SEP Offset Amount:	Fifteen Thousand Dollars (\$15,000)
Type of SEP:	Compliance
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	Henderson County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order in exchange for Respondent’s performance of a Supplemental Environmental Project (“SEP”).

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 which are described in this Agreed Order.

I. Project Description

A. Project

Respondent hired a contractor to purchase and replace the rotating assembly for the distributor mechanism in one of the two trickling filters at the Facility. Repair of the trickling filter’s distributor enabled it to be returned to service, thereby improving the Facility’s wastewater treatment prior to discharge. This reduced total suspended solids, biochemical oxygen demand, and disinfectant residual exceedances in the discharged effluent. Specifically, the SEP Offset Amount was used for materials, supplies, and equipment for trickling filter repair (the “Project”). Respondent hired qualified contractors to perform the Project. The SEP was performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent used the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in the below Subsection C. Expenses. No portion of the SEP Offset Amount was 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 had no prior commitment to perform this Project and that the SEP was 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 treatment for 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. Expenses

Respondent spent at least the SEP Offset Amount to complete the project described in Section 1.A., above, and complied with all other provisions of this SEP. Respondent understood that it may have costs more than the SEP Offset Amount to complete the Project.

Expenses

Item	Quantity	Total
Trickling Filter Distributor Repair	1	\$106,500
Total		\$106,500

2. Records

As of August 17, 2022, Respondent provided TCEQ the following documentation as proof of completion of the proposed SEP:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 2.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 2.1., above;
4. A certified statement of SEP completion and document authentication;
5. Detailed map showing specific location of the project site(s); and
6. Dated photographs of: the purchased materials and supplies; conditions before and after work was performed during the Project; and of the completed Project.

3. 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 where any work was financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

4. 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 and 3 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:

City of Athens
Docket No. 2021-1168-MWD-E
Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. 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.

6. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

7. 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.