

Executive Summary – Enforcement Matter – Case No. 61329

Town of Windom

RN103014619

Docket No. 2021-1220-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:

Town of Windom WWTP, located approximately 0.25 mile southwest of the intersection of Farm-to-Market Road 1743 and State Highway 56, Windom, Fannin County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 22, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$51,750

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$51,750

Name of SEP: WWTP Improvements (Compliance)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 24, 2021

Date(s) of NOE(s): September 9, 2021

Executive Summary – Enforcement Matter – Case No. 61329

Town of Windom

RN103014619

Docket No. 2021-1220-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for daily average flow, total suspended solids, and biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010666001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent achieved compliance with the permitted effluent limitations by July 31, 2021.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

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

Respondent: The Honorable Liena Fox, Mayor, Town of Windom, P.O. Box 1027, Windom, Texas 75492

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	13-Sep-2021		
	PCW	4-Jan-2024	Screening	13-Sep-2021
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Town of Windom			
Reg. Ent. Ref. No.	RN103014619			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	61329	No. of Violations	2
Docket No.	2021-1220-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samantha Smith
		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	\$45,000
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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	40.0%	Adjustment	Subtotals 2, 3, & 7	\$18,000
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Notes

Enhancement for four months of self-reported effluent violations and one 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	-\$11,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,283
Estimated Cost of Compliance	\$51,750

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$51,750
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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

Final Penalty Amount	\$51,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$51,750
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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	\$51,750
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Screening Date13-Sep-2021

RespondentTown of Windom

Case ID No.61329

Reg. Ent. Reference No.RN103014619

MediaWater Quality

Enf. CoordinatorSamantha Smith

Docket No.2021-1220-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>)	4	20%
	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)

40%

>> 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 four months of self-reported effluent violations and one order containing a denial of liability.

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

40%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

40%

Screening Date	13-Sep-2021	Docket No.	2021-1220-MWD-E	PCW	
Respondent	Town of Windom	<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No.	61329	<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No.	RN103014619				
Media	Water Quality				
Enf. Coordinator	Samantha Smith				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010666001, Effluent Limitations and Monitoring Requirements No. 1				
Violation Description	Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.				
Base Penalty				\$25,000	
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major	Moderate	Minor	
	Actual	x			
	Potential				Percent 50.0%
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					Percent 0.0%
Matrix Notes	A simplified model was used to evaluate biochemical oxygen demand and flow to determine whether the discharged amounts of pollutants exceeded protective levels. Total Suspended Solids were also considered. Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment				\$12,500	
					\$12,500
Violation Events					
Number of Violation Events		3	90	Number of violation days	
	daily				
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
	single event			Violation Base Penalty \$37,500	
Three monthly events are recommended for the months of February, March, and May 2021.					
Good Faith Efforts to Comply		25.0%	Reduction		\$9,375
	Extraordinary		Before NOE/NOV NOE/NOV to EDRP/Settlement Offer		
	Ordinary	x			
	N/A				
	Notes	The Respondent achieved compliance by July 31, 2021, prior to the Notice of Enforcement dated September 9, 2021.			
Violation Subtotal				\$28,125	
Economic Benefit (EB) for this violation					
Estimated EB Amount		\$1,283	Violation Final Penalty Total		\$43,125
This violation Final Assessed Penalty (adjusted for limits)				\$43,125	

Economic Benefit Worksheet

Respondent Town of Windom
Case ID No. 61329
Reg. Ent. Reference No. RN103014619
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)	\$51,750	31-Jan-2021	31-Jul-2021	0.50	\$1,283	n/a	\$1,283
Notes for DELAYED costs	Actual Other cost to complete a "WWTP Improvements Project" in order to achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance and the Final Date is the date of project completion.						

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	\$51,750	TOTAL	\$1,283
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Screening Date 13-Sep-2021 Respondent Town of Windom Case ID No. 61329 Reg. Ent. Reference No. RN103014619 Media Water Quality Enf. Coordinator Samantha Smith		Docket No. 2021-1220-MWD-E PCW																		
		<i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																		
Violation Number 2 Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010666001, Effluent Limitations and Monitoring Requirements No. 1 Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.		Base Penalty \$25,000																		
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1"> <tr> <td></td> <th colspan="3">Harm</th> </tr> <tr> <th>Release</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td>x</td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>				Harm			Release	Major	Moderate	Minor	Actual			x	Potential				Percent 15.0%
		Harm																		
	Release	Major	Moderate	Minor																
Actual			x																	
Potential																				
>> Programmatic Matrix																				
Matrix Notes	<table border="1"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>				Falsification	Major	Moderate	Minor						Percent 0.0%						
		Falsification	Major	Moderate	Minor															
A simplified model was used to evaluate biochemical oxygen demand and flow to determine whether the discharged amounts of pollutants exceeded protective levels. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.																				
			Adjustment \$21,250																	
			\$3,750																	
Violation Events																				
Number of Violation Events 2		91 Number of violation days																		
<table border="1"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td>x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>		daily		weekly		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty \$7,500				
daily																				
weekly																				
monthly																				
quarterly	x																			
semiannual																				
annual																				
single event																				
Two quarterly events are recommended for the quarters containing the months of January, April, and June 2021.																				
Good Faith Efforts to Comply		25.0%	Reduction \$1,875																	
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer																		
Extraordinary																				
Ordinary		x																		
N/A																				
Notes		The Respondent achieved compliance by July 31, 2021, prior to the Notice of Enforcement dated September 9, 2021.																		
Violation Subtotal			\$5,625																	
Economic Benefit (EB) for this violation		Statutory Limit Test																		
Estimated EB Amount \$0		Violation Final Penalty Total \$8,625																		
This violation Final Assessed Penalty (adjusted for limits)			\$8,625																	

Economic Benefit Worksheet

Respondent Town of Windom
Case ID No. 61329
Reg. Ent. Reference No. RN103014619
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	See Economic Benefit Worksheet for Violation No. 1.						

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

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

Approx. Cost of Compliance	\$0	TOTAL	\$0
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Town of Windom
TPDES Permit No. WQ0010666001
Docket No. 2021-1220-MWD-E
Case No. 61329

Effluent Violation Table			
Monitoring Period	Biochemical Oxygen Demand (5-day)	Flow	Total Suspended Solids
	Daily Average Loading Limit = 8.0 lbs/day	Daily Average Loading Limit = 0.032 MGD	Daily Average Loading Limit = 24 lbs/day
January 2021	c	0.055	c
February 2021	9.93	0.049	c
March 2021	13.67	0.052	c
April 2021	9.03	0.039	c
May 2021	29.97	0.112	64.07
June 2021	c	0.051	c

lbs/day = pounds per day
c = compliant

MGD = million gallons per day

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 CN602296709, RN103014619, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN602296709, Town of Windom
Classification: SATISFACTORY
Rating: 13.25

Regulated Entity: RN103014619, TOWN OF WINDOM WWTP
Classification: SATISFACTORY
Rating: 13.25

Complexity Points: 4
Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: Approximately 0.25 mile southwest of the intersection of Farm-to-Market Road 1743 and State Highway 56 in Windom, Fannin County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
WASTEWATER PERMIT WQ0010666001
WASTEWATER EPA ID TX0072711
WASTEWATER LICENSING LICENSE WQ0010666001

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

Date Compliance History Report Prepared: April 05, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 05, 2017 to April 05, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Alyssa Loveday
Phone: (512) 239-5504

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: 05/30/2017 ADMINORDER 2016-0375-MWD-E (1660 Order-Agreed Order With Denial)
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 309, SubChapter A 309.3(g)(2)
- Rqmt Prov: TPDES Permit No. WQ0010666001 PERMIT
- Description: Failed to provide at least 20 minutes (based on daily average flow) of detention time for chlorine residual.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
- Rqmt Prov: TPDES Permit No. WQ0010666001 PERMIT
- Description: Failed to submit annual sludge reports for the monitoring periods ending July 31, 2014 and July 31, 2015 to the TCEQ Dallas/Fort Worth Regional Office and Enforcement Division Compliance Monitoring Team.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(9)(A)
- Rqmt Prov: TPDES Permit No. WQ0010666001 PERMIT
- Description: Failed to report any effluent violation which deviates from the permitted effluent limitation by more than 40% in writing to the TCEQ Dallas/Fort Worth Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance.
- Classification: Minor
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	November 20, 2017	(1462367)
Item 2	December 20, 2017	(1468753)
Item 3	July 20, 2020	(1674482)
Item 4	September 20, 2020	(1687826)
Item 5	November 12, 2020	(1686809)
Item 6	November 13, 2020	(1715164)
Item 7	December 17, 2020	(1715165)
Item 8	January 20, 2021	(1715166)
Item 9	August 19, 2021	(1758021)

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: 04/30/2021 (1741408)		
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 05/31/2021 (1748060)		
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 06/30/2021 (1752603)		
	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: 09/30/2021 (1777730)		
	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
TOWN OF WINDOM
RN103014619

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1220-MWD-E

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

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 0.25 mile southwest of the intersection of Farm-to-Market Road 1743 and State Highway 56 in Windom, Fannin County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on August 24, 2021, an investigator documented that the Respondent did not comply with permitted effluent limitations, as shown in the effluent violation table below:

Effluent Violation Table			
Monitoring Period	Biochemical Oxygen Demand (5-day)	Flow	Total Suspended Solids
	Daily Average Loading Limit = 8.0 lbs/day	Daily Average Loading Limit = 0.032 MGD	Daily Average Loading Limit = 24 lbs/day
January 2021	c	0.055	c
February 2021	9.93	0.049	c
March 2021	13.67	0.052	c
April 2021	9.03	0.039	c
May 2021	29.97	0.112	64.07
June 2021	c	0.051	c

lbs/day = pounds per day
c = compliant

MGD = million gallons per day

3. The Executive Director recognizes that the Respondent achieved compliance with the permitted effluent limitations by July 31, 2021.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010666001, Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$51,750 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, \$51,750 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A" - incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Town of Windom, Docket No. 2021-1220-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 Conclusion of Law No. 4. The amount of \$51,750 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. 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. 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.
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 in this Order.
7. 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.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's

jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

4/2/2024

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

Name (Printed or typed)

Title

Authorized Representative of
Town of Windom

☐ 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: 2021-1220-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Town of Windom
Penalty Amount:	Fifty-One Thousand Seven Hundred Fifty Dollars (\$51,750)
SEP Offset Amount:	Fifty-One Thousand Seven Hundred Fifty Dollars (\$51,750)
Type of SEP:	Compliance
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	Fannin 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”). 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 replace four manholes and 57 linear feet of sanitary sewer system line in Windom’s wastewater collection system, which should reduce inflow and infiltration that cause dilution and high flows at the Facility. Respondent will also introduce tilapia into the Facility’s wastewater lagoons to remove vegetation from the ponds. Enzyme mixtures will also be added to aid in the removal of excess sludge from the lagoons, which will reduce the biochemical oxygen demand and total suspended solids at the Facility. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for rehabilitation of Respondent’s wastewater and treatment systems (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 helping to prevent inflow and infiltration in the Facility's collection system, and 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. 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	Quantity	Cost	Units	Total
Tilapia	1	\$730.00	Lump Sum	\$730.00
Enzyme Chemical (250 DS)	15	\$57.20	Gallon	\$858.00
Bacteria Booster Chemical	5	\$23.50	Gallon	\$117.50
Manhole Replacements	4	\$8,800.00	Each	\$35,200.00
Sewer Line Replacement	57	\$85.00	Linear Feet	\$4,845.00
Engineering Fee	1	\$10,000.00	Lump Sum	\$10,000.00
Total				\$51,750.50

2. Performance Schedule

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

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

Reporting Schedule

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

B. Final Report

Within 130 days after the effective date of the Agreed Order, or within 30 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to 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. Equipment logs showing the hours the equipment was utilized on the project;

9. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
10. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. 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.