

**Executive Summary – Enforcement Matter – Case No. 61372**

**City of Arp**

**RN101720498**

**Docket No. 2021-1294-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 Arp WWTP, located approximately 0.5 mile south of the intersection of State Highway 135 and State Highway Spur 80 and approximately 1.0 miles northeast of the intersection of State Highway 135 and Farm-to-Market Road 345, Arp, Smith 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:** \$81,375

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$81,375

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. 61372**

**City of Arp**

**RN101720498**

**Docket No. 2021-1294-MWD-E**

***Violation Information***

1. Failed to comply with permitted effluent limitations for total suspended solids, daily average flow, *Escherichia coli*, and biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010511001, Effluent Limitations and Monitoring Requirements No. 1].

2. Failed to collect and analyze effluent samples at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0010511001, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented a corrective measure by developing and implementing procedures and conducting employee training to ensure samples were collected and analyzed in accordance with permit requirements by March 22, 2021.

**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 effluent limitations of TPDES Permit No. WQ0010511001, 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:** Adena Crider, SEP Coordinator, Litigation Division, MC 175, (512) 239-0648

**Respondent:** The Honorable Dennis L. Ford, Mayor, City of Arp, P.O. Box 68, Arp, Texas 75750

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	20-Sep-2021			
	<b>PCW</b>	28-Nov-2023	<b>Screening</b>	20-Sep-2021	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Arp				
<b>Reg. Ent. Ref. No.</b>	RN101720498				
<b>Facility/Site Region</b>	5-Tyler		<b>Major/Minor Source</b>	Minor	

## CASE INFORMATION

<b>Enf./Case ID No.</b>	61372	<b>No. of Violations</b>	4
<b>Docket No.</b>	2021-1294-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Samantha Smith
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$52,500
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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.

<b>Compliance History</b>	<b>55.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$28,875
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<b>Notes</b>	Enhancement for six months of self-reported effluent violations, one NOV with same/similar violations, and one agreed order containing a denial of liability.
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<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	<b>0.0%</b>	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$517
Estimated Cost of Compliance	\$5,250

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$81,375
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$81,375
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$81,375
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<b>DEFERRAL</b>	<b>0.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$81,375
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Screening Date20-Sep-2021

RespondentCity of Arp

Case ID No.61372

Reg. Ent. Reference No.RN101720498

MediaWater Quality

Enf. CoordinatorSamantha Smith

Docket No.2021-1294-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 (number of NOVs meeting criteria)	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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)55%

>> 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 six months of self-reported effluent violations, one NOV with same/similar violations, and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)55%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%55%

Screening Date	20-Sep-2021	Docket No.	2021-1294-MWD-E	PCW
Respondent	City of Arp			Policy Revision 5 (January 28, 2021)
Case ID No.	61372			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN101720498			
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. WQ0010511001, 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	Major	Moderate	Minor
	Actual	x		
	Potential			
			Percent	50.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
			Percent	0.0%
Matrix Notes	Escherichia coli was evaluated to determine whether the discharged amount of pollutants exceeded protective levels. Total suspended solids was also considered. Human health or the environment has been exposed to pollutants that exceed levels that are protective of human health or environmental receptors as a result of the violation.			
		Adjustment	\$12,500	
			\$12,500	
Violation Events				
	Number of Violation Events	2	61	Number of violation days
	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
			Violation Base Penalty	\$25,000
	Two monthly events are recommended for the months of March 2021 and April 2021.			
Good Faith Efforts to Comply		0.0%	Reduction	\$0
	Extraordinary		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
	Ordinary			
	N/A	x		
Notes	The Respondent does not meet the good faith criteria for this violation.			
		Violation Subtotal	\$25,000	
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	\$516	Violation Final Penalty Total	\$38,750
	This violation Final Assessed Penalty (adjusted for limits)			\$38,750

# Economic Benefit Worksheet

**Respondent** City of Arp  
**Case ID No.** 61372  
**Reg. Ent. Reference No.** RN101720498  
**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)	\$5,000	31-Oct-2020	24-Nov-2022	2.07	\$516	n/a	\$516
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	\$5,000	TOTAL	\$516
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<b>Screening Date</b> 20-Sep-2021		<b>Docket No.</b> 2021-1294-MWD-E		<b>PCW</b>	
<b>Respondent</b> City of Arp		<i>Policy Revision 5 (January 28, 2021)</i>			
<b>Case ID No.</b> 61372		<i>PCW Revision February 11, 2021</i>			
<b>Reg. Ent. Reference No.</b> RN101720498					
<b>Media</b> Water Quality					
<b>Enf. Coordinator</b> Samantha Smith					
<b>Violation Number</b> 2					
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010511001, Effluent Limitations and Monitoring Requirements No. 1			
<b>Violation Description</b>		Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.			
<b>Base Penalty</b>				\$25,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Release</b>		<b>Harm</b>		
	Major	Moderate	Minor		
	Actual	x			
	Potential				<b>Percent</b> 25.0%
<b>&gt;&gt;Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0.0%
Matrix Notes	Escherichia coli was evaluated to determine whether the discharged amount of pollutants exceeded protective levels. Human health or the environment has been exposed to significant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
<b>Adjustment</b>				\$18,750	
				\$6,250	
<b>Violation Events</b>					
Number of Violation Events		3	92	Number of violation days	
	daily				
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
	single event				
				<b>Violation Base Penalty</b> \$18,750	
Three monthly events are recommended for the months of October 2020, December 2020, and June 2021.					
<b>Good Faith Efforts to Comply</b>		0.0%		Reduction \$0	
	Extraordinary				
	Ordinary				
	N/A	x			
Notes	The Respondent does not meet the good faith criteria for this violation.				
<b>Violation Subtotal</b>				\$18,750	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$0		<b>Violation Final Penalty Total</b> \$29,063	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$29,063	

Economic Benefit Worksheet

Respondent City of Arp  
Case ID No. 61372  
Reg. Ent. Reference No. RN101720498  
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 for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Screening Date  
Respondent  
Case ID No.  
Reg. Ent. Reference No.  
Media  
Enf. Coordinator

20-Sep-2021  
City of Arp  
61372  
RN101720498  
Water Quality  
Samantha Smith

Docket No.

2021-1294-MWD-E

PCW

Policy Revision 5 (January 28, 2021)  
PCW Revision February 11, 2021

Violation Number

3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010511001, 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

Major

Moderate

Minor

Actual

x

Potential

Percent

15.0%

>>Programmatic Matrix

Falsification

Major

Moderate

Minor

Percent

0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. Flow and total suspended solids 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

\$21,250

Violation Events

Number of Violation Events

2

59

Number of violation days

daily

weekly

monthly

quarterly

semiannual

annual

single event

x

Violation Base Penalty

\$7,500

Two quarterly events are recommended for the quarters containing the months of February and May 2021.

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

\$0

Violation Final Penalty Total

\$11,625

This violation Final Assessed Penalty (adjusted for limits)

\$11,625

Economic Benefit Worksheet

Respondent City of Arp  
Case ID No. 61372  
Reg. Ent. Reference No. RN101720498  
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

<b>Screening Date</b> 20-Sep-2021 <b>Respondent</b> City of Arp <b>Case ID No.</b> 61372 <b>Reg. Ent. Reference No.</b> RN101720498 <b>Media</b> Water Quality <b>Enf. Coordinator</b> Samantha Smith		<b>Docket No.</b> 2021-1294-MWD-E <b>PCW</b>																	
		<i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																	
<b>Violation Number</b>	4																		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0010511001, Effluent Limitations and Monitoring Requirements No. 1																		
<b>Violation Description</b>	Failed to collect and analyze effluent samples at the intervals specified in the permit. Specifically, the Respondent did not collect and analyze a sample for Escherichia coli for the monitoring period of February 2021.																		
		<b>Base Penalty</b>	\$25,000																
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																			
<b>OR</b>	<table border="1"> <tr> <td></td> <td colspan="3"><b>Harm</b></td> </tr> <tr> <td><b>Release</b></td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td>x</td> <td></td> </tr> </table>				<b>Harm</b>			<b>Release</b>	Major	Moderate	Minor	Actual				Potential		x	
		<b>Harm</b>																	
	<b>Release</b>	Major	Moderate	Minor															
Actual																			
Potential		x																	
			<b>Percent</b> 5.0%																
<b>&gt;&gt; Programmatic Matrix</b>																			
<b>Matrix Notes</b>	<table border="1"> <tr> <td></td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table>				Major	Moderate	Minor												
		Major	Moderate	Minor															
			<b>Percent</b> 0.0%																
			<b>Adjustment</b> \$23,750																
			\$1,250																
<b>Violation Events</b>																			
Number of Violation Events		1	22 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></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td>x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x				
daily																			
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monthly																			
quarterly																			
semiannual																			
annual																			
single event	x																		
		<b>Violation Base Penalty</b>	\$1,250																
<div>One single event is recommended for the monitoring period of February 2021.</div>																			
<b>Good Faith Efforts to Comply</b>		0.0%	Reduction \$0																
	<table border="1"> <tr> <td></td> <td>Before NOE/NOV</td> <td>NOE/NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td>x</td> <td></td> </tr> </table>				Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x					
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer																	
Extraordinary																			
Ordinary																			
N/A	x																		
	<div>The Respondent does not meet the good faith criteria for this violation.</div>																		
		<b>Violation Subtotal</b>	\$1,250																
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>																	
<b>Estimated EB Amount</b>		\$1	<b>Violation Final Penalty Total</b> \$1,938																
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$1,938																	

# Economic Benefit Worksheet

**Respondent** City of Arp  
**Case ID No.** 61372  
**Reg. Ent. Reference No.** RN101720498  
**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	\$250	28-Feb-2021	22-Mar-2021	0.06	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Training/Sampling cost to develop and implement procedures and conduct employee training to ensure samples are collected and analyzed in accordance with permit requirements. The Date Required is the last day the sample could have been taken, 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	\$250	TOTAL	\$1
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City of Arp  
Docket No. 2021-1294-MWD-E  
TPDES Permit No. WQ0010511001

Effluent Violation Table

Monitoring Period	<i>Escherichia coli</i>		Biochemical Oxygen Demand (5-day)		Flow	Total Suspended Solids	
	Daily Average Conc.	Single Grab Conc.	Daily Average Conc.	Daily Average Loading	Daily Average	Daily Average Conc.	Daily Average Loading
	Limit= 126 CFU/100 mL	Limit= 399 CFU/100 mL	Limit= 20 mg/L	Limit= 35 lbs/day	Limit= 0.211 MGD	Limit= 20 mg/L	Limit= 35 lbs/day
October 2020	1046	1046	c	c	c	c	c
December 2020	1986	1986	c	c	c	c	c
February 2021	No Sample	No Sample	28.6	35.1	c	25.8	43
March 2021	2420	2420	c	c	c	31	59.8
April 2021	2420	2420	c	c	c	c	c
May 2021	387	c	c	c	0.331	28	88.8
June 2021	1414	1414	c	c	c	25.3	c

Conc.= concentration

CFU/100 mL= colony-forming units per 100 milliliters

mg/L= milligrams per liter

MGD= million gallons per day

lbs/day= pounds per day

c= compliant

The TCEQ is committed to accessibility.

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



# Compliance History Report

Compliance History Report for CN600653166, RN101720498, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN600653166, City of Arp **Classification:** SATISFACTORY **Rating:** 5.61

**Regulated Entity:** RN101720498, CITY OF ARP WWTP **Classification:** SATISFACTORY **Rating:** 5.61

**Complexity Points:** 4 **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** approximately 0.5 mile south of the intersection of State Highway 135 and State Highway Spur 80 and approximately 1.0 mile northeast of the intersection of State Highway 135 and Farm-to-Market Road 345 in Smith County, Texas

**TCEQ Region:** REGION 05 - TYLER

**ID Number(s):**  
**WASTEWATER PERMIT** WQ0010511001 **WASTEWATER EPA ID** TX0054194

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

**Date Compliance History Report Prepared:** July 21, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 21, 2017 to July 21, 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:**

- 1 Effective Date: 02/14/2018 ADMINORDER 2016-0800-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: Failed to comply with permitted effluent limits

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1	July 24, 2017	(1440483)
Item 2	August 15, 2017	(1444165)
Item 3	September 19, 2017	(1450765)
Item 4	October 19, 2017	(1456626)
Item 5	November 17, 2017	(1462091)

Item 6	December 19, 2017	(1468477)
Item 7	February 14, 2018	(1471106)
Item 8	February 16, 2018	(1487386)
Item 9	May 09, 2018	(1501259)
Item 10	June 18, 2018	(1508345)
Item 11	July 20, 2018	(1514678)
Item 12	August 20, 2018	(1520733)
Item 13	September 19, 2018	(1527903)
Item 14	October 22, 2018	(1534258)
Item 15	November 19, 2018	(1542093)
Item 16	March 19, 2019	(1561602)
Item 17	April 17, 2019	(1572461)
Item 18	May 24, 2019	(1569341)
Item 19	July 16, 2019	(1593800)
Item 20	September 16, 2019	(1600129)
Item 21	September 18, 2019	(1607029)
Item 22	October 15, 2019	(1598861)
Item 23	October 16, 2019	(1613878)
Item 24	November 19, 2019	(1619688)
Item 25	December 18, 2019	(1627053)
Item 26	January 16, 2020	(1634683)
Item 27	February 19, 2020	(1641296)
Item 28	June 11, 2020	(1667258)
Item 29	September 18, 2020	(1687551)
Item 30	September 28, 2020	(1680979)
Item 31	October 19, 2020	(1693897)
Item 32	December 16, 2020	(1714357)
Item 33	February 12, 2021	(1727421)
Item 34	July 20, 2021	(1737185)
Item 35	August 17, 2021	(1757773)
Item 36	September 16, 2021	(1766980)
Item 37	October 07, 2021	(1756657)
Item 38	October 20, 2021	(1777464)
Item 39	December 17, 2021	(1791291)
Item 40	June 17, 2022	(1819794)

**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:	10/31/2021	(1784261)	
	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:	12/31/2021	(1799075)	
	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:	01/14/2022	(1776291)	
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125 TX0054194 PERMIT WQ0010511001 PERMIT		
	Description:	Failure to properly operate and maintain the facility.		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125 30 TAC Chapter 309, SubChapter A 309.3(g)(2) TX0054194 PERMIT WQ0010511001 PERMIT		
	Description:	Failure to disinfect the effluent for a minimum of 20 minutes at peak flow.		

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125  
TWC Chapter 26 26.121  
TX0054194 PERMIT  
Description: WQ0010511001 PERMIT  
Failure to prevent an unauthorized discharge into or adjacent to a surface water in the state.

4 Date: 01/31/2022 (1806951)  
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: 02/28/2022 (1814018)  
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

6 Date: 03/31/2022 (1820590)  
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

7 Date: 04/30/2022 (1829425)  
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 ARP  
RN101720498

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1294-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 Arp (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 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 0.5 mile south of the intersection of State Highway 135 and State Highway Spur 80 and approximately 1.0 mile northeast of the intersection of State Highway 135 and Farm-to-Market Road 345 in Smith 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 for the Facility conducted on August 24, 2021, an investigator documented that:
  - a. The Respondent did not comply with permitted effluent limitations, as shown in the effluent violation table below:

Effluent Violation Table							
Monitoring Period	<i>Escherichia coli</i>		Biochemical Oxygen Demand (5-day)		Flow	Total Suspended Solids	
	Daily Average Conc.	Single Grab Conc.	Daily Average Conc.	Daily Average Loading	Daily Average	Daily Average Conc.	Daily Average Loading
	Limit= 126 CFU/100 mL	Limit= 399 CFU/100 mL	Limit= 20 mg/L	Limit= 35 lbs/day	Limit= 0.211 MGD	Limit= 20 mg/L	Limit= 35 lbs/day
October 2020	1046	1046	c	c	c	c	c
December 2020	1986	1986	c	c	c	c	c
February 2021	No Sample	No Sample	28.6	35.1	c	25.8	43
March 2021	2420	2420	c	c	c	31	59.8
April 2021	2420	2420	c	c	c	c	c
May 2021	387	c	c	c	0.331	28	88.8
June 2021	1414	1414	c	c	c	25.3	c

Conc.= concentration  
CFU/100 mL= colony-forming units per 100 milliliters  
mg/L= milligrams per liter  
MGD= million gallons per day  
lbs/day= pounds per day  
c= compliant

- b. The Respondent did not collect and analyze a sample for *Escherichia coli* for the monitoring period of February 2021.
3. The Executive Director recognizes that the Respondent has implemented a corrective measure at the Facility by developing and implementing procedures and conducting employee training to ensure samples were collected and analyzed in accordance with permit requirements by March 22, 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.a, 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. WQ0010511001, Effluent Limitations and Monitoring Requirements No. 1.

3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to collect and analyze effluent samples at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0010511001, Effluent Limitations and Monitoring Requirements No. 1.
4. 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.
5. An administrative penalty in the amount of \$81,375 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, \$81,375 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. 5 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 Arp, Docket No. 2021-1294-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. 5. The amount of \$81,375 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall, within 130 days after the effective date of this Order, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0010511001, 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 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. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the

Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.

8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
11. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
12. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

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 OAG 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 OAG 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  
City of Arp

☐ 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: 2021-1294-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Arp
<b>Penalty Amount:</b>	\$81,375
<b>SEP Offset Amount:</b>	\$81,375
<b>Type of SEP:</b>	Compliance
<b>Project Name:</b>	<i>WWTP Improvements</i>
<b>Location of SEP:</b>	Smith 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 purchase and install a surge tank of 100,000 gallons or more, at the Facility. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for the installation of a surge tank (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.A, 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**

<b>Item</b>	<b>Total</b>
Surge Tank	\$100,000
<b>Total</b>	<b>\$100,000</b>

**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](mailto: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.

**Reporting Schedule**

<b>Days from Effective Order Date</b>	<b>Information Required</b>
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. 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.