

Executive Summary – Enforcement Matter – Case No. 62423

City of Alvarado

RN101917334

Docket No. 2022-0660-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Alvarado WWTF, 130 County Road 404, Alvarado, Johnson 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: February 9, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$108,750

Amount Deferred for Expedited Settlement: \$21,750

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$87,000

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: February 28, 2022

Date(s) of NOE(s): May 9, 2022

Executive Summary – Enforcement Matter – Case No. 62423

City of Alvarado

RN101917334

Docket No. 2022-0660-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for daily average maximum flow, ammonia nitrogen, and *Escherichia coli* [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010567002, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to, within 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010567002, 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 to demonstrate compliance.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Harley Hobson, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1337; 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 Jacob Wheat, Mayor, City of Alvarado, 104 West College Street, Alvarado, Texas 76009-4319

Paul DeBuff, City Manager, City of Alvarado, 104 West College Street, Alvarado, Texas 76009-4319

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	16-May-2022			
	PCW	28-Jun-2022	Screening	26-May-2022	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	City of Alvarado				
Reg. Ent. Ref. No.	RN101917334				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	62423	No. of Violations	2
Docket No.	2022-0660-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harley Hobson
		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	\$72,500
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	50.0%	Adjustment	Subtotals 2, 3, & 7	\$36,250
---------------------------	--------------	-------------------	--------------------------------	----------

Notes	Enhancement for ten months of self-reported effluent violations.			
--------------	--	--	--	--

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	-------------	--------------------	-------------------	-----

Notes	The Respondent does not meet the culpability criteria.			
--------------	--	--	--	--

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	-------------	---------------------	-------------------	-----

Total EB Amounts	\$1,849
Estimated Cost of Compliance	\$15,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$108,750
-----------------------------	-----------------------	-----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	-------------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$108,750
-----------------------------	-----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$108,750
-----------------------------------	-------------------------------	-----------

DEFERRAL	20.0%	Reduction	Adjustment	-\$21,750
-----------------	--------------	------------------	-------------------	-----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$87,000
------------------------	----------

Screening Date26-May-2022

RespondentCity of Alvarado

Case ID No.62423

Reg. Ent. Reference No.RN101917334

MediaWater Quality

Enf. CoordinatorHarley Hobson

Docket No.2022-0660-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>)	10	50%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)50%

>> 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 ten months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)50%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%50%

Screening Date	26-May-2022	Docket No.	2022-0660-MWD-E	PCW
Respondent	City of Alvarado	<i>Policy Revision 5 (January 28, 2021)</i>		
Case ID No.	62423	<i>PCW Revision February 11, 2021</i>		
Reg. Ent. Reference No.	RN101917334			
Media	Water Quality			
Enf. Coordinator	Harley Hobson			
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. WQ0010567002, 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				25.0%
>>Programmatic Matrix				
	Falsification	Major	Moderate	Minor
Percent				0.0%
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment				\$18,750
				\$6,250
Violation Events				
Number of Violation Events		11	335	Number of violation days
	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
Violation Base Penalty				\$68,750
Eleven monthly events are recommended for the months of January, February, March, April, May, July, August, September, October, November, and December 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				\$68,750
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		\$1,849	Violation Final Penalty Total	\$103,125
This violation Final Assessed Penalty (adjusted for limits)				\$103,125

Economic Benefit Worksheet

Respondent City of Alvarado
Case ID No. 62423
Reg. Ent. Reference No. RN101917334
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$15,000	31-Jan-2021	20-Jul-2023	2.47	\$1,849	n/a	\$1,849

Notes for DELAYED costs

Estimated Other cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and 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 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	\$15,000	TOTAL	\$1,849
----------------------------	----------	--------------	---------

Screening Date 26-May-2022		Docket No. 2022-0660-MWD-E		PCW	
Respondent City of Alvarado		<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No. 62423		<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No. RN101917334					
Media Water Quality					
Enf. Coordinator Harley Hobson					
Violation Number 2					
Rule Cite(s)		30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010567002, 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			Harm		
	Release	Major	Moderate	Minor	
	Actual			x	Percent 15.0%
	Potential				
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					Percent 0.0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
				Adjustment	\$21,250
					\$3,750
>> Violation Events					
Number of Violation Events		1	30	Number of violation days	
	daily			Violation Base Penalty \$3,750	
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				
One quarterly event is recommended for the quarter containing the month of June 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	\$3,750
>> Economic Benefit (EB) for this violation					
>> Statutory Limit Test					
Estimated EB Amount		\$0		Violation Final Penalty Total	\$5,625
This violation Final Assessed Penalty (adjusted for limits)				\$5,625	

Economic Benefit Worksheet

Respondent City of Alvarado
Case ID No. 62423
Reg. Ent. Reference No. RN101917334
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	Economic Benefit included in 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
----------------------------	-----	-------	-----

City of Alvarado Docket No. 2022-0660-MWD-E TPDES Permit No. WQ0010567002						
Effluent Violation Table						
	<i>E. coli</i>		Flow	Ammonia Nitrogen		
	Daily Max. Conc.	Daily Avg. Conc.	Daily Avg. Max.	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Loading
Month/ Year	Limit = 399 CFU/100	Limit = 126 CFU/100	Limit = 0.6 MGD	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 15 lbs/d
January 2021	>2,420	209	c	c	c	c
February 2021	>2,420	c	c	c	c	c
March 2021	>2,420	c	c	3.82	c	c
April 2021	>2,420	c	c	c	c	c
May 2021	2,420	c	0.7503	c	c	c
June 2021	960	c	c	3.22	c	c
July 2021	1,200	c	c	c	c	c
August 2021	>2,420	c	c	3.53	c	c
September 2021	1,990	c	c	c	c	c
October 2021	>2,420	c	c	3.61	c	c
November 2021	>2,420	c	c	4.24	c	c
December 2021	2,420	c	c	8.82	18	23.0853

Avg. = average

Conc. = Concentration

CFU/100 = colony forming units per 100 milliliters

MGD = million gallons per day

lbs/d = pounds per day

c = compliant

E. coli = *Escherichia coli*

Max. = maximum

mg/L = milligrams per liter



Compliance History Report

Compliance History Report for CN600736060, RN101917334, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600736060, City of Alvarado **Classification:** SATISFACTORY **Rating:** 4.89

Regulated Entity: RN101917334, CITY OF ALVARADO **Classification:** SATISFACTORY **Rating:** 4.89

Complexity Points: 8 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 130 County Road 404 in Alvarado, Johnson County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER EPA ID TX0033278

WASTEWATER PERMIT WQ0010567002

WASTEWATER EPA ID TX0126179

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

Date Compliance History Report Prepared: May 26, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 26, 2017 to May 26, 2022

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

Name: Steven Van Landingham

Phone: (512) 239-5717

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	July 25, 2017	(1441857)
Item 2	August 28, 2018	(1516045)
Item 3	August 20, 2019	(1601456)
Item 4	September 10, 2019	(1608362)

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:	05/31/2021	(1742947)	
	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:	06/30/2021	(1753616)	
---	-------	------------	-----------	--

	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: 07/31/2021 (1759000)	
	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: 08/31/2021 (1768358)	
	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: 09/30/2021 (1779061)	
	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: 10/31/2021 (1785550)	
	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: 11/30/2021 (1792598)	
	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	
8	Date: 12/31/2021 (1800437)	
	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	
9	Date: 01/31/2022 (1808265)	
	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	
10	Date: 02/28/2022 (1815315)	
	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 ALVARADO
RN101917334

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

AGREED ORDER DOCKET NO. 2022-0660-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment facility located at 130 County Road 404 in Alvarado, Johnson County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$108,750 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$21,750 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$87,000 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

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

II. ALLEGATIONS

During a record review conducted on February 28, 2022, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010567002, Effluent Limitations and Monitoring Requirements No. 1, as shown in the effluent violation table below:

Effluent Violation Table						
	<i>E. coli</i>		Flow	Ammonia Nitrogen		
	Daily Max. Conc.	Daily Avg. Conc.	Daily Avg. Max.	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Loading
Month/ Year	Limit = 399 CFU/100	Limit = 126 CFU/100	Limit = 0.6 MGD	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 15 lbs/d
January 2021	>2,420	209	c	c	c	c
February 2021	>2,420	c	c	c	c	c
March 2021	>2,420	c	c	3.82	c	c
April 2021	>2,420	c	c	c	c	c
May 2021	2,420	c	0.7503	c	c	c
June 2021	960	c	c	3.22	c	c

July 2021	1,200	c	c	c	c	c
August 2021	>2,420	c	c	3.53	c	c
September 2021	1,990	c	c	c	c	c
October 2021	>2,420	c	c	3.61	c	c
November 2021	>2,420	c	c	4.24	c	c
December 2021	2,420	c	c	8.82	18	23.0853

Avg. = average

c = compliant

Conc. = Concentration

E. coli = *Escherichia coli*

CFU/100 = colony forming units per 100 milliliters

Max. = maximum

MGD = million gallons per day

mg/L = milligrams per liter

lbs/d = pounds per day

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Alvarado, Docket No. 2022-0660-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 I, Paragraph No. 4. The amount of \$87,000 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 permitted effluent limitations of TPDES Permit No. WQ0010567002, 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, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned,

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

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



2/22/2024

For the Executive Director

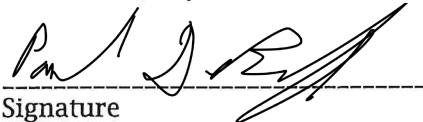
Date

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 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.



1.12.24

Signature

Date

Paul DeBuff

City Manager

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

Title

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

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

Attachment A
Docket Number: 2022-0660-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Alvarado
Penalty Amount:	Eighty-Seven Thousand Dollars (\$87,000)
SEP Offset Amount:	Eighty-Seven Thousand Dollars (\$87,000)
Type of SEP:	Compliance
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	Johnson 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 install a replacement ultraviolet (UV) disinfection system at the Facility. The new UV disinfection system will better enable the Facility to meet its permitted effluent limits for E. coli under anticipated flows. It will reduce pollutants from entering the receiving stream for the Facility’s treated effluent, better avoiding harm to human health and aquatic life. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for installing a new UV disinfection system (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 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 in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project. 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
UV System	1	\$319,000	Lump Sum	\$319,000
Total				\$319,000

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 below in the Reporting Schedule table:

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

C. 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 in Sections 2 through 4 above, 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.