

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WEBB COUNTY
RN101717601 AND
RN102456092

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2016-0612-MLM-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 Webb County (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 plant with an associated collection system located approximately 2,000 feet east of the Rio Grande, 10,000 feet west of United States Highway 83 and approximately 13,000 feet south-southwest from the intersection of United States Highway 83 and Hein Mangana Road in Webb County, Texas ("Facility No. 1"). Facility No. 1 is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), a fleet refueling station with an underground storage tank ("UST") system located at 7210 Saunders Street in Laredo, Webb County, Texas ("Facility No. 2"). The UST system at Facility No. 2 is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
3. 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.
4. 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.
5. An administrative penalty in the amount of \$45,187 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$9,037

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 contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or 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, \$36,150 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Compliance Supplemental Environmental Project ("C-SEP") as defined in the attached C-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 C-SEP Agreement, as determined by the Executive Director.

6. 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.
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
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. The Executive Director recognizes that the Respondent implemented the following corrective measures at Facility No. 1:
 - a. By July 15, 2015:
 - i. Chained and locked the valves that regulate wastewater flow into the headworks; and
 - ii. Cleaned and disinfected the areas affected by the discharge from the headworks.
 - b. By December 16, 2015, cleaned and disinfected the areas affected by discharges from the collection system.
 - c. By May 8, 2016, installed a new bar screen at the headworks.

- d. By May 13, 2016, removed sludge and floating solids from the chlorine contact chamber.

II. ALLEGATIONS

1. During an investigation conducted from January 25 through January 26, 2016 at Facility No. 1, an investigator documented that the Respondent:
 - a. Failed to prevent the discharge of floating solids or visible foam in other than trace amounts and failed to ensure that the facility and all its systems of collection, treatment, and disposal are properly operated and maintained, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), (4), and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013577003, Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2.d, and Operational Requirements No. 1. Specifically, the chlorine contact chamber was not properly maintained as it contained 0.3 foot of sludge in a 12-foot water depth and the buildup of solids caused a discharge of solids into the receiving stream. Additionally, the sludge digester was inoperable; the aeration basin baffles were broken; the headworks bar screen was not properly removing solids, grit, and grease; and the headworks grinder was inoperable.
 - b. Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0013577003, Permit Conditions No. 2.g. Specifically, on July 15, 2015, approximately 22,000 gallons of wastewater were discharged from the headworks onto the ground due to closed influent valves.
 - c. Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0013577003, Permit Conditions No. 2.g. Specifically, wastewater was discharged from various locations throughout the wastewater collection system onto the ground, as described in the following table:

Unauthorized Discharges Violation Table				
Start Date	End Date	Approximate Volume in Gallons	Location	Description
8/30/2014	8/30/2014	350	El Cenizo Lift Station No. 2	Mechanical failure
9/1/2014	9/1/2014	350	El Cenizo Lift Station No. 2	Excess grease
9/2/2014	9/2/2014	350	El Cenizo Lift Station No. 2	Pump floaters were not working properly

Unauthorized Discharges Violation Table				
Start Date	End Date	Approximate Volume in Gallons	Location	Description
10/6/2014	10/12/2014	185	1836 Centeno Lane	Manhole collapse
10/20/2014	10/22/2014	45	1836 Centeno Lane	Mechanical failure
10/28/2014	10/28/2014	35	Espejo Molina Lift Station No. 2	Tangled pump floaters
11/4/2014	11/4/2014	19	Centeno Lane and Tulipan Lane	Electrical failure
11/4/2014	11/5/2014	8	1836 Centeno Lane	Battery failure
11/9/2014	11/9/2014	2	1836 Centeno Lane	Pump turned off
11/18/2014	11/18/2014	5	Centeno Lane and Patricia Lane	Tangled pump floaters
11/25/2014	11/25/2014	1	1836 Centeno Lane	Pump turned off
12/4/2014	12/4/2014	15	Espejo Molina Lift Station No. 2	Tangled pump floaters
12/16/2014	12/16/2014	5	Espejo Molina Lift Station No. 2	Tangled pump floaters
12/20/2014	12/20/2014	3	Rio Volga and Paseo de Danubio	Clogged main
1/1/2015	1/1/2015	4	Centeno Lane and Tulipan Lane	Pump failure
1/1/2015	1/2/2015	15	1832 Margarita Lane	Electrical failure
1/3/2015	1/4/2015	33	1836 Centeno Lane	Clogged main
1/11/2015	1/13/2015	20	Tulipan Lift Station	Main connection leak
1/15/2015	1/15/2015	2	Centeno Lane and Patricia Lane	Equipment failure
1/27/2015	1/27/2015	30	1836 Centeno Lane	Hydraulic overload
1/28/2015	1/28/2015	20	Espejo Molina Lift Station No. 1	Tangled pump floaters
1/31/2015	1/31/2015	40	Espejo Molina Lift Station No. 2	Tangled pump floaters
2/25/2015	2/25/2015	17	Centeno Lane and Patricia Lane	Equipment failure

Unauthorized Discharges Violation Table				
Start Date	End Date	Approximate Volume in Gallons	Location	Description
3/11/2015	3/11/2015	15	Espejo Molina Lift Station No. 2	Tangled pump floaters
3/23/2015	3/23/2015	2	1836 Centeno Lane	Clogged main
3/26/2015	3/26/2015	53	1204 Paseo de Danubio Street	Pump electrical failure
5/21/2015	5/21/2015	1,300	Jimenez Lift Station on Jimenez Street	Pump hydraulic overload
5/25/2015	5/25/2015	600	Espejo Molina Lift Station No. 1	Pump electrical failure
5/26/2015	5/26/2015	300	Espejo Molina Lift Station No. 1	Pump blockage
5/28/2015	5/28/2015	162	Jimenez Lift Station	Electrical failure
6/5/2015	6/5/2015	40	Espejo Molina Lift Station No. 2	Electrical failure
7/16/2015	7/16/2015	14	Centeno Lane and Patricia Lane	Equipment failure
7/21/2015	7/21/2015	250	Espejo Molina Lift Station No. 1	Loose connection
7/23/2015	7/23/2015	60	1836 Centeno Lane and 1832 Margarita Lane	Electrical failure
7/26/2015	7/26/2015	68	Centeno Lane and Patricia Lane	Electrical failure
7/27/2015	7/27/2015	150	Centeno Lane and Tulipan Lane	Electrical failure
7/28/2015	7/28/2015	74	Centeno Lane and Patricia Lane	Electrical failure
7/30/2015	7/30/2015	120	Espejo Molina Lift Station No. 2	Electrical breaker off
7/30/2015	7/30/2015	50	Espejo Molina Lift Station No. 2	Pump fuse damaged
7/31/2015	7/31/2015	550	Espejo Molina Lift Station No. 1	Pump mechanical failure

Unauthorized Discharges Violation Table				
Start Date	End Date	Approximate Volume in Gallons	Location	Description
8/5/2015	8/5/2015	900	1224 Paseo de Danubio Street	Clogged main
8/8/2015	8/8/2015	45	Espejo Molina Lift Station No. 2	Pump overheated
8/9/2015	8/9/2015	55	Espejo Molina Lift Station No. 2	Pump overheated
8/10/2015	8/10/2015	90	Espejo Molina Lift Station No. 1	Electrical failure
8/21/2015	8/21/2015	680	401 Cadena Street	Clogged manhole
8/23/2015	8/23/2015	8	Espejo Molina Lift Station No. 2	Tangled pump floaters
8/24/2015	8/24/2015	144	Espejo Molina Lift Station No. 2	Electrical failure
9/2/2015	9/2/2015	125	1208 Paseo de Danubio	Pump overheated
9/2/2015	9/2/2015	110	1540 Margarita Lane	Hydraulic overload
9/15/2015	9/15/2015	500	Jimenez Lift Station	Electrical failure
10/1/2015	10/1/2015	175	Espejo Molina Lift Station No. 2	Electrical failure
10/8/2015	10/8/2015	140	Espejo Molina Lift Station No. 2	Electrical failure
10/10/2015	10/10/2015	95	Espejo Molina and Pena Streets	Excess grease
11/1/2015	11/1/2015	50	1214 Paseo de Neva	Clogged main
11/11/2015	11/12/2015	800	Espejo Molina Lift Station No. 2	Electrical failure
11/24/2015	11/24/2015	200	Espejo Molina Lift Station No. 2	Electrical failure
12/16/2015	12/16/2015	20	1440 Margarita Lane	Hydraulic overload
12/16/2015	12/16/2015	520	1224 Paseo de Danubio	Main switch off

- d. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0013577003, Operational Requirements No. 1. Specifically, one of the pumps at the Espejo Molina No. 2 lift station had been removed and the wet well contained excessive grease, and there were inoperable pumps and excessive grease in the wet wells at four additional lift stations-Espejo Molina No. 1, Jimenez, Paseo de Danubio, and Patricia.
2. During an investigation conducted on June 23, 2016 at Facility No. 2, an investigator documented that the Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1). Specifically, the monthly inventory control reconciliation was not being performed in conjunction with the automatic tank gauging, as required.

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 5. 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: Webb County, Docket No. 2016-0612-MLM-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 a C-SEP as set forth in Section I, Paragraph 5. The amount of \$36,150 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the C-SEP pursuant to the terms of the C-SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the C-SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, provide proper release detection for the USTs at Facility No. 2, in accordance with 30 TEX. ADMIN. CODE § 334.50.

- b. Within 45 days after the effective date of this Order, submit written certification of compliance with Ordering Provision No. 3.a, in accordance with Ordering Provision No. 3.f.
- c. Within 60 days after the effective date of this Order:
 - i. Replace the Espejo Molina No. 2 lift station pump that had been removed and repair the Espejo Molina No. 1, Jimenez, Paseo de Danubio, and Patricia lift station pumps;
 - ii. Remove and properly dispose of the excessive grease within the wet wells of the Espejo Molina No. 1, Espejo Molina No. 2, Jimenez, Paseo de Danubio, and Patricia lift stations;
 - iii. Initiate operation and properly operate the headworks grinder;
 - iv. Repair and properly operate the sludge digester; and
 - v. Conduct an engineering evaluation of Facility No. 1 and the wastewater collection system to evaluate the necessary corrective actions designed to prevent or minimize unauthorized discharges of wastewater and/or sludge, and to develop and implement corrective actions required to minimize the accumulation of sludge in the chlorine contact chamber and to provide an optimal retention time in the aeration basin. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 300 days after the effective date of this Order.
- d. Within 75 days after the effective date of this Order, submit written certification of compliance with Ordering Provision Nos. 3.c.i through 3.c.v, in accordance with Ordering Provision No. 3.f.
- e. Within 315 days after the effective date of this Order, in accordance with Ordering Provision No. 3.f, submit written certification of the:
 - i. Completion of the corrective actions designed to prevent or minimize unauthorized discharges of wastewater and/or sludge from Facility No. 1 and the wastewater collection system, and implementation of corrective actions required to minimize the accumulation of sludge in the chlorine contact chamber and to provide an optimal retention time in the aeration basin, as required by Ordering Provision No. 3.c.v; and
 - ii. Purchase and installation of six auto dialers, the repair or replacement of five existing lift station generators, and generator electrical repair or replacement.

- f. The certifications required by Ordering Provision Nos. 3.b, 3.d, 3.e.i, and 3.e.ii shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the corrective actions in Ordering Provision Nos. 3.a and 3.c.i through 3.c.v. 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:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

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 Nos. 1 and 2 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 Order Compliance Team at the address listed above.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
 9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
 10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

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

Signature

Date

Name (Printed or typed)
Authorized Representative of
Webb County

Title

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

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

Attachment A
Docket Number: 2016-0612-MLM-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Webb County
Penalty Amount:	Thirty-Six Thousand One Hundred Fifty Dollars (\$36,150)
SEP Offset Amount:	Thirty-Six Thousand One Hundred Fifty Dollars (\$36,150)
Type of SEP:	Compliance SEP
Project Name:	<i>Auto-Dialer Installation and Generator Rehabilitation Project</i>
Location of SEP:	Webb County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform 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 TEX. WATER CODE § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at Respondent's wastewater treatment facility.

1. Project Description

A. Project

Respondent shall hire a contractor to purchase and install mission control auto dialers with the capability to communicate into the existing water system SCADA (Supervisory Control and Data Acquisition) where the 24-hours/7 days-a-week operators can receive alerts and initiate immediate response from the following locations, which benefit two municipal communities, Rio Bravo and El Cenizo:

- Main pump station at the wastewater treatment plant;
- Lift Station No. 1—Jimenez Street, City of El Cenizo;
- Lift Station No. 2—Espejo Molina, South, located between Cities of Rio Bravo and El Cenizo;
- Lift Station No. 3—Espejo Molina, North, located between Cities of Rio Bravo and El Cenizo;
- Lift Station No. 4—Paseo de Danubio Road, City of Rio Bravo; and
- Patricia and Tulipan Streets, City of Rio Bravo.

In addition, the contractor will conduct a preliminary evaluation of the existing non-operational generators and will provide repair and/or replacement of electrical and