



DEPARTMENT OF JUSTICE

Notice Of Lodging Of Proposed Consent Decree
Under The Clean Water Act

On January 17, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Texas in the lawsuit entitled *United States and the State of Texas v. City of Tyler, Texas*, Civil Action No. 6:17-cv-00029.

The United States of America and the State of Texas (collectively, “Plaintiffs”) filed a complaint against the City of Tyler, Texas, (“Defendant”) alleging that Defendant violated and continues to violate Section 301 of the Clean Water Act (“CWA”), 33 U.S.C. § 1311, and Section 26.121(a)(1) of the Texas Water Code (“TWC”) by discharging raw sewage from the City of Tyler’s wastewater collection and treatment systems (“WCTS”) into or adjacent to local waterways. The complaint further alleges that Defendant failed to comply with the terms and conditions of its two Texas Pollutant Discharge Elimination System permits, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and in violation of Section 7.101 of the TWC, due to operational failures, Defendant’s failure to issue all necessary reports required by its permits, and Defendant’s failure to adequately safeguard against discharges during power outages. The complaint alleges violations have been ongoing since 2005. The Plaintiffs seek injunctive relief, pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and Section 7.032 of the TWC, and civil penalties, pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1321(b), and Section 7.101 of the TWC.

Under the proposed settlement, Defendant will perform injunctive relief aimed at upgrading and advancing the physical and operational state of its WCTS. Specifically, Defendant must improve employee training and the daily operation of its WCTS; overhaul its

inspection forms and recordkeeping procedures; assess the condition of the entire WCTS and remediate certain defects identified; study WCTS capacity to identify potential capacity constraints in the system and address field-verified confirmed capacity constraints; install adequate backup power to manage untreated wastewater in the event of electrical failures; and identify and permanently remove certain discovered locations that could divert untreated wastewater from the WCTS to waters or otherwise into the environment. The proposed Consent Decree also requires Defendant to pay a \$563,000 civil penalty to the United States and Texas, to be split equally by Plaintiffs, and to pay the State of Texas an additional \$30,000 in attorney’s fees.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Texas v. City of Tyler, Texas*, D.J. Ref. No. 90-5-1-1-09767. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$36.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy requested without the exhibits and signature pages, the cost is \$21.25.

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