EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0122-MWD-E **TCEQ ID:** RN101721033 **CASE NO.:** 32435

RESPONDENT NAME: City of Charlotte

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
___AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
___MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Approximately 1,500 feet south and 3,100 feet west of the intersection of State Highway 140 and State Highway 97, Atascosa County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ____ Yes __X__ No

OTHER SIGNIFICANT MATTERS: No complaints were received. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on June 18, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: The Honorable Augustine R. Munoz, Mayor, City of Charlotte, P.O. Box 216, Charlotte, Texas 78011
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** December 27, 2006 **Date of NOE Relating to this Case:** January 5, 2007 (NOE) **Background Facts:** This was a routine record review. Two violations were documented. **WATER** 1) Failed to comply with permit effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010142001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6]. 2) Failure to submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010142001, Sludge Provisions].	**Total Assessed:** $8,122 **Total Deferred:** $1,624 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $6,498 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the City has implemented the following corrective measures at the Facility: a. On October 31, 2006, became compliant with the permit effluent limits by recirculation of the wastewater back to the facultative pond to stimulate bacterial activity; and b. On January 23, 2007, submitted the annual sludge report. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete the Supplemental Environmental Project (SEP) (See Attachment A).

Attachment A
Docket Number: 2007-0122-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Charlotte**
Payable Penalty Amount:	**Six Thousand Four Hundred Ninety-Eight Dollars ($6,498)**
SEP Amount:	**Six Thousand Four Hundred Ninety-Eight Dollars ($6,498)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Atascosa County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision December 8, 2006*

TCEQ

DATES						
Assigned	22-Jan-2007					
PCW	9-Mar-2007	Screening	26-Jan-2007	EPA Due		

RESPONDENT/FACILITY INFORMATION

Respondent	City of Charlotte		
Reg. Ent. Ref. No.	RN101721033		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32435	No. of Violations	2
Docket No.	2007-0122-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $3,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 185% Enhancement — *Subtotals 2, 3, & 7* $5,735

Notes: The penalty is enhanced because the Respondent self-reported 35 effluent violations, received two notices of violations (NOVs) for violations that are same or similar to those cited in this action.

Culpability — No — 0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 10% Reduction — *Subtotal 5* $310

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes: The Respondent came into compliance on January 23, 2007.

Total EB Amounts	$102
Approx. Cost of Compliance	$2,100

0% Enhancement* — **Capped at the Total EB $ Amount* — *Subtotal 6* $0

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $8,525

OTHER FACTORS AS JUSTICE MAY REQUIRE — -5% — *Adjustment* -$403

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes: Recommend reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount and to prevent double-enhancement of the penalty amount for same violations that were not self-reported.

Final Penalty Amount $8,122

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $8,122

DEFERRAL — 20% Reduction — *Adjustment* -$1,624

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $6,498

Screening Date 26-Jan-2007 **Docket No.** 2007-0122-MWD-E **PCW**

Respondent City of Charlotte

Case ID No. 32435

Reg. Ent. Reference No. RN101721033

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	37	185%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements 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%

		Please Enter Yes or No	
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) 185%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty is enhanced because the Respondent self-reported 35 effluent violations, received two notices of violations (NOVs) for violations that are same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 185%

Screening Date 26-Jan-2007 **Docket No.** 2007-0122-MWD-E **PCW**

Respondent City of Charlotte *Policy Revision 2 (September 2002)*

Case ID No. 32435 *PCW Revision December 8, 2006*

Reg. Ent. Reference No. RN101721033

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010142001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6.

Violation Description Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on December 27, 2006. See attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simple model was used to evaluate Five Day Biochemical Oxygen Demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. pH and Dissolved Oxygen were also considered. As a result of these discharges, human health or the environment have been exposed to insignificant amounts of pollutants which do not exceed levels harmful to human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 3 215 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,000

Three quarterly events recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $100

Statutory Limit Test

Violation Final Penalty Total $7,860

This violation Final Assessed Penalty (adjusted for limits) $7,860

Economic Benefit Worksheet

Respondent City of Charlotte
Case ID No. 32435
Reg. Ent. Reference No. RN101721033
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$2,000	31-Oct-2005	31-Oct-2006	1.0	$100	n/a	$100
Notes for DELAYED costs	Estimated cost for implementing necessary rehabilitation work to the facility. Date Required is the initial month of noncompliance. Final Date is the date the Facility returned to compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $2,000

TOTAL: $100

Screening Date 26-Jan-2007 **Docket No.** 2007-0122-MWD-E **PCW**

Respondent City of Charlotte *Policy Revision 2 (September 2002)*

Case ID No. 32435 *PCW Revision December 8, 2006*

Reg. Ent. Reference No. RN101721033

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010142001, Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006, as documented during the December 27, 2006, Record Review investigation.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Approximately 70% of the permit requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1 | 144 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $262

This violation Final Assessed Penalty (adjusted for limits) $262

Economic Benefit Worksheet

Respondent City of Charlotte
Case ID No. 32435
Reg. Ent. Reference No. RN101721033
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$100	1-Sep-2006	23-Jan-2007	0.4	$2	n/a	$2

Notes for DELAYED costs: Estimated amount required to submit the DMRs for the annual sludge report to the Enforcement Division, calculated from the date of noncompliance to the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $100

TOTAL: $2

Effluent Limit Violation Table	table rev.
Respondent	City of Charlotte
ID Number(s)	TPDESPermit No. WQ0010142001
Docket Number	2007-0122-MWD-E
Enf. Coordinator	Heather Brister
Corresponds to Violation Number:	1

EFFLUENT PARAMETER			
Permit Limit			
	Dissolved Oxygen Minimum 4.0 Milligrams per Liter	pH Maximum 9.0	Five Day Biochemical Oxygen Demand 30 Milligrams per Liter
Month/Year			
Oct-05	3.9	c	c
Nov-05	3.9	c	59.6
Dec-05	c	c	48
Jan-06	c	c	39
Jul-06	3.6	c	c
Aug-06	3.6	c	c
Sep-06	c	9.1	c

Compliance History

Customer/Respondent/Owner-Operator: CN600628325 **City of Charlotte** Classification: AVERAGE Rating: 1.65

Regulated Entity: RN101721033 **CITY OF CHARLOTTE** Classification: AVERAGE Site Rating: 1.65

ID Number(s):		
	WASTEWATER	WQ0010142001
	WASTEWATER	TPDES0033375
	WASTEWATER	TX0033375
	WASTEWATER LICENSING	WQ0010142001

Location: 1500 FT S AND 3100 FEET W OF HWY 140 AND HWY 97 INTERSECTION

TCEQ Region: REGION 13 - SAN ANTONIO

Rating Date: September 01 06
Repeat Violator: NO

Date Compliance History Prepared: January 26, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 26, 2002 to January 26, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Heather Brister Phone: 512-239-1203

Site Compliance History Components

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 of the site during the compliance period?	No
3. If Yes, who is the current owner?	NA
4. if Yes, who was/were the prior owner(s)?	NA
5. When did the change(s) in ownership occur?	NA

Components (Multimedia) for the Site :

A.	Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.	N/A
B.	Any criminal convictions of the state of Texas and the federal government.	N/A
C.	Chronic excessive emissions events.	N/A

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

1	11/18/2003	(304366)
2	12/29/2003	(304367)
3	01/27/2004	(304368)
4	04/20/2006	(500440)
5	05/18/2006	(500441)
6	06/21/2006	(500442)
7	02/21/2006	(472005)
8	03/20/2006	(472006)
9	03/22/2005	(383864)
10	11/10/2003	(249656)
11	01/08/2007	(535275)
12	11/30/2004	(383865)
13	10/28/2005	(472007)
14	12/28/2004	(383866)
15	02/28/2005	(421802)
16	01/18/2005	(383867)
17	04/26/2005	(421803)
18	08/14/2006	(486402)
19	05/24/2005	(421804)
20	12/27/2005	(472008)
21	06/17/2005	(421805)
22	01/23/2006	(472009)

23 02/25/2002 (179355)
24 02/18/2003 (179356)
25 03/25/2002 (179357)
26 09/02/2004 (290604)
27 07/22/2005 (442701)
28 03/18/2003 (179358)
29 08/19/2005 (442702)
30 07/21/2006 (522544)
31 09/23/2005 (442703)
32 08/21/2006 (522545)
33 04/16/2002 (179359)
34 05/22/2002 (179360)
35 09/15/2006 (522546)
36 06/18/2002 (179362)
37 07/17/2002 (179364)
38 08/21/2002 (179366)
39 09/23/2002 (179368)
40 04/27/2004 (355730)
41 02/18/2004 (304357)
42 03/22/2004 (304358)
43 05/24/2004 (355731)
44 10/21/2002 (179370)
45 04/21/2003 (304359)
46 06/28/2004 (355732)
47 07/22/2004 (355733)
48 05/20/2003 (304360)
49 11/22/2002 (179372)
50 08/24/2004 (355734)
51 06/16/2003 (304361)
52 09/29/2004 (355735)
53 12/20/2002 (179374)
54 10/19/2004 (355736)
55 07/22/2003 (304362)
56 08/25/2003 (304363)
57 09/16/2003 (304364)
58 01/27/2003 (179376)
59 10/21/2003 (304365)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: **12/31/2003** (304368)
Self Report? YES
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **06/30/2005** (442701)
Self Report? YES
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2005** (442702)
Self Report? YES
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2005** (442703)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **01/31/2006** (472005)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **02/28/2005** (383864)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **11/10/2003** (249656)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to have the backflow prevention device at the WWTP tested by a certified backflow assembly technician.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the effluent discharge limitations. A review of self-reporting data for the previous year revealed the following noncompliances: February 2003; BOD-30.25 mg/l daily average; March 2003: BOD-38 mg/l daily average; April 2003: BOD-42 mg/l daily average.

Date: **10/31/2004** (383865)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **01/31/2005** (421802)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2004** (383867)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2005** (421803)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2005** (472007)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2005** (421804)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **11/30/2005** (472008)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2005** (472009)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **02/28/2002** (179357)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **02/28/2003** (179358)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2006** (522545)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2002** (179360)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2006** (522546)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2002** (179368)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2004** (355730)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **02/29/2004** (304358)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2004** (355731)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2002** (179370)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2003** (304359)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/14/2006** (486402)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to maintain compliance with the permitted effluent limits. The grab sample collected during the investigation was noncompliant for Dissolved Oxygen.

Date: **06/30/2004** (355733)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2003** (304360)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **05/31/2003** (304361)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **11/30/2002** (179374)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2004** (355736)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2003** (304363)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2003** (304364)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2002** (179376)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **10/31/2005**
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2006**
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF CHARLOTTE	§	
RN101721033	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0122-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The City owns and operates a wastewater treatment facility located approximately 1,500 feet south and 3,100 feet west of the intersection of State Highway 140 and State Highway 97 in Atascosa County, Texas (the "Facility").

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.

4. The City received notice of the violations alleged in Section II ("Allegations") on or about January 10, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand One Hundred Twenty-Two Dollars ($8,122) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Six Thousand Four Hundred Ninety-Eight Dollars ($6,498) of the administrative penalty shall be conditionally offset by the City's completion of a Supplememtal Environmental Project and One Thousand Six Hundred Twenty-Four Dollars ($1,624) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. 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.

8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:

   a. On October 31, 2006, became compliant with the permit effluent limits by recirculation of the wastewater back to the facultative pond to stimulate bacterial activity; and

   b. On January 23, 2007, submitted the annual sludge report.

10. 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 City has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010142001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6 as documented during a record review conducted on December 27, 2006, and as shown in the following table:

EFFLUENT PARAMETER			
Permit Limit			
	Dissolved Oxygen Minimum 4.0 Milligrams per Liter	**pH Maximum 9.0**	**Five Day Biochemical Oxygen Demand 30 Milligrams per Liter**
Month/Year			
Oct-05	3.9	c	c
Nov-05	3.9	c	59.6
Dec-05	c	c	48
Jan-06	c	c	39
Jul-06	3.6	c	c
Aug-06	3.6	c	c
Sep-06	c	9.1	c

2. Failure to submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010142001, Sludge Provisions, as documented during a record review conducted on December 27, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Charlotte, Docket No. 2007-0122-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Four Hundred Ninty-Eight Dollars ($6,498) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed scheduals, and that failure is caused soley by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

John Fridlin
For the Executive Director

8/23/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Augustine R. Munoz
Signature

04-13-07
Date

Augustine R. Munoz
Name (Printed or typed)
Authorized Representative of
City of Charlotte

Mayor
Title

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

Attachment A
Docket Number: 2007-0122-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Charlotte**
Payable Penalty Amount:	**Six Thousand Four Hundred Ninety-Eight Dollars ($6,498)**
SEP Amount:	**Six Thousand Four Hundred Ninety-Eight Dollars ($6,498)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Atascosa County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.