

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0514-MWD-E **TCEQ ID:** RN102314069 **CASE NO.:** 33126

RESPONDENT NAME: Texas Department of Criminal Justice

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: TDJC Scott Unit, approximately four miles southeast of the intersection of State Highway 35 and Farm-to-Market Road 521, approximately three miles north of Farm-to-Market Road 2004 and State Highway 332, Brazoria County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 13, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Frank Inmon, Director, Facilities Division, Texas Department of Criminal Justice, Post Office Box 40110, Huntsville, Texas 77342 Mr. Charles R. Marsh, Chief Financial Officer, Texas Department of Criminal Justice, Post Office Box 40110, Huntsville, Texas 77342 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 13, 2007</p> <p>Date of NOE Relating to this Case: March 5, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to comply with ammonia-nitrogen permitted effluent limitations [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 10829001, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to report daily average and daily maximum flow for the monitoring period ending April 30, 2006; and total suspended solids maximum, daily average 5-day carbonaceous biochemical oxygen demand (CBOD), and maximum CBOD for the monitoring period ending October 31, 2006 [30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. 10829001, Monitoring and Reporting Requirements No.1].</p>	<p>Total Assessed: \$2,970</p> <p>Total Deferred: \$594 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,376</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) Removed sludge from the oxidation ditch and increased the removal rate from weekly to daily to achieve compliance with permitted effluent limitations by September 30, 2006; and</p> <p>b) Submitted revised Discharge Monitoring Reports for the months of April and October 2006 to the TCEQ by March 15, 2007.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).</p>

Attachment A

Docket Number: 2007-0514-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Texas Department of Criminal Justice

Payable Penalty Amount: Two Thousand Three Hundred Seventy-Six Dollars (\$2,376)

SEP Amount: Two Thousand Three Hundred Seventy-Six Dollars (\$2,376)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

Location of SEP: Brazoria 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 provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

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 March 19, 2007

TCEQ

DATES	Assigned	12-Mar-2007	Screening	31-Mar-2007	EPA Due	
	PCW	31-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Department of Criminal Justice
Reg. Ent. Ref. No.	RN102314069
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33126	No. of Violations	2	
Docket No.	2007-0514-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee Hupp	
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	\$2,200
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	45% Enhancement	Subtotals 2, 3, & 7	\$990
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Notes Respondent self-reported four violations same or similar to those in this case and received one Agreed Order without a denial of liability.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	10% Reduction	Subtotal 5	\$220
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Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes Respondent came into compliance with effluent limitations by September 30, 2006 by beginning the removal of sludge at a greater frequency from the oxidation ditch. TCEQ received the required monitoring data for April and October 2006 on March 15, 2007.

	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$17	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$595	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,970
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$2,970
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,970
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DEFERRAL	20% Reduction	Adjustment	-\$594
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,376
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Screening Date 31-Mar-2007

Docket No. 2007-0514-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 33126

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102314069

Media [Statute] Water Quality

Inf. Coordinator Merrilee Hupp

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)	4	20%
	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	1	25%
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) 45%

>> 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

Respondent self-reported four violations same or similar to those in this case and received one Agreed Order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 31-Mar-2007

Docket No. 2007-0514-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 33126

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102314069

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. 10829001, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with ammonia-nitrogen permitted effluent limitations. (See Effluent Table attached.)

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

92 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

Violation Base Penalty \$2,000

Two quarterly event are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$2,700

This violation Final Assessed Penalty (adjusted for limits) \$2,700

Economic Benefit Worksheet

Respondent: Texas Department of Criminal Justice
Case ID No.: 33126
Reg. Ent. Reference No.: RN102314069
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

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	\$495	31-Mar-2006	30-Sep-2006	0.5	\$12	\$12
Permit Costs			0.0	\$0	n/a	\$0
Other (as needed)			0.0	\$0	n/a	\$0

Notes for DELAYED costs

Cost is estimate to bring ammonia-nitrogen values within permitted levels by removing sludge from the oxidation ditch and increasing the frequency of sludge removal from the oxidation ditch from weekly to daily beginning August 31, 2006. Date required is first month of documented noncompliance and final date is when compliance was achieved.

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

\$495

TOTAL

\$12

Screening Date 31-Mar-2007

Docket No. 2007-0514-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 33126

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102314069

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), TPDES Permit No. 10829001, Monitoring and Reporting Requirements No.1

Violation Description Failed to report daily average and daily maximum flow for the monitoring period ending April 30, 2006; and total suspended solids maximum, daily average 5-day carbonaceous biochemical oxygen demand (CBOD), and maximum CBOD for the monitoring period ending October 31, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes

About 30 percent of the reporting requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 299

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$200

Two single events are recommended for the two monthly reports with missing data.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$270

This violation Final Assessed Penalty (adjusted for limits) \$270

Economic Benefit Worksheet

Respondent Texas Department of Criminal Justice
Case ID No. 33126
Reg. Ent. Reference No. RN102314069
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	Onetime Costs	EB Amount
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No commas or \$

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	20-May-2006	15-Mar-2007	0.8	\$4	n/a	\$4

Notes for DELAYED costs

Cost is estimate for the administrative costs and labor associated with the reporting of monitoring data. Date required is the due date for the first month of missing data and the final date is when the missing data was received by TCEQ.

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

\$4

Texas Department of Criminal Justice
RN102314069

Effluent Violation Table

Date	Daily Avg. NH ₃ -N Conc. Limit= 2 mg/L	Daily Avg. NH ₃ -N Loading Limit= 7.5 lbs/day	Single Grab NH ₃ -N Conc. Limit=15 mg/L
March 31, 2006	3.78	12.63	c
April 30, 2006	9.3	15.89	17.9
August 31, 2006	3.34	c	c

Conc.: concentration
NH₃-N: ammonia-nitrogen

mg/L: milligrams per liter
Avg.: average

lbs/day: pounds per day
c: compliant

Compliance History

Customer/Respondent/Owner-Operator:	CN601550650	Texas Department of Criminal Justice	Classification: AVERAGE	Rating: 2.66
Regulated Entity:	RN102314069	TDCJ SCOTT UNIT	Classification: AVERAGE	Site Rating: 6.90
ID Number(s):	WASTEWATER	PERMIT		WQ0010829001
	WASTEWATER	PERMIT		TPDES0031658
	WASTEWATER	PERMIT		TX0031658
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		0200046
	AIR NEW SOURCE PERMITS	PERMIT		44372
	AIR NEW SOURCE PERMITS	PERMIT		44720
	AIR NEW SOURCE PERMITS	PERMIT		46039
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		BL0750S
	AIR NEW SOURCE PERMITS	PERMIT		53359
	AIR NEW SOURCE PERMITS	PERMIT		54393
	PETROLEUM STORAGE TANK	REGISTRATION		48478
	REGISTRATION			
	WASTEWATER AGRICULTURE	PERMIT		TXG920521
	WASTEWATER LICENSING	LICENSE		WQ0010829001
	WATER LICENSING	LICENSE		0200046
Location:	Approx. 4 mi SE of intersect. of SH35 and FM Rd. 521, approx. 3 mi. N of FM Rd. 2004 and SH 332, Brazoria Co.			Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	April 02, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 02, 2005 to April 02, 2007			

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

Name: Merrilee G. Hupp Phone: 512-239-4490

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? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/29/2005 ADMINORDER 2003-0066-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 317 317.4(g)(4)(B)[G]
 30 TAC Chapter 317 317.6(b)[G]

Rqmt Prov: Eff. Limitations..& Operational Req. 1 PERMIT

Description: Failure to properly operate and maintain the Facility and to comply with permit effluent limitations.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
 30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: Monitoring & Reporting Nos. 1,2,3b. & 3c PERMIT

Description: Failure to provide complete and accurate records for review.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Monitoring & Reporting Requirement No. 1 PERMIT

Description: Failure to submit the DMR for April 2002

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.126(a)

Rqmt Prov: Operational Requirements No. 8 PERMIT
 Description: Failure to take actions upon reaching 90% of plant capacity for three consecutive months.
 Classification: Moderate
 Citation: 30 TAC Chapter 30, SubChapter J 30.350(j)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: Operational Requirements No. 9 PERMIT
 Description: Failure to provide certified personnel to operate wastewater treatment facility.

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	04/07/2005	(421647)
2	04/07/2005	(421648)
3	04/07/2005	(421649)
4	04/07/2005	(421650)
5	04/18/2005	(421643)
6	04/18/2005	(421644)
7	04/18/2005	(421651)
8	06/10/2005	(421645)
9	06/16/2005	(421646)
10	08/29/2005	(403095)
11	08/29/2005	(442585)
12	09/30/2005	(442584)
13	10/10/2005	(471723)
14	10/31/2005	(471724)
15	11/04/2005	(471725)
16	11/15/2005	(436644)
17	12/01/2005	(471726)
18	01/06/2006	(471727)
19	02/10/2006	(471728)
20	03/14/2006	(471722)
21	04/19/2006	(500272)
22	05/18/2006	(500273)
23	06/12/2006	(500274)
24	08/11/2006	(522366)
25	08/16/2006	(522367)
26	08/28/2006	(522368)
27	10/20/2006	(547061)
28	11/06/2006	(547062)
29	11/15/2006	(514516)
30	12/07/2006	(547063)
31	12/29/2006	(547064)
32	01/12/2007	(535386)
33	03/05/2007	(540347)

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

Date:	08/31/2005	(471724)		
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:	03/31/2006	(500273)		
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:	04/30/2006	(500274)		
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	(547061)		
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
ENFORCEMENT ACTION
CONCERNING
TEXAS DEPARTMENT OF
CRIMINAL JUSTICE
RN102314069

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0514-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 Texas Department of Criminal Justice ("the TDCJ") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the TDCJ appear before the Commission and together stipulate that:

1. The TDCJ owns and operates a wastewater treatment facility located approximately four miles southeast of the intersection of State Highway 35 and Farm-to-Market Road 521, approximately three miles north of Farm-to-Market Road 2004 and State Highway 332 in Brazoria County, Texas (the "Facility").
2. The TDCJ has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the TDCJ agree that the Commission has jurisdiction to enter this Agreed Order, and that the TDCJ is subject to the Commission's jurisdiction.
4. The TDCJ received notice of the violations alleged in Section II ("Allegations") on or about March 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 TDCJ of any violation alleged in Section II ("Allegations"), nor of any statute or rule. .

6. An administrative penalty in the amount of Two Thousand Nine Hundred Seventy Dollars (\$2,970) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Five Hundred Ninety-Four Dollars (\$594) is deferred contingent upon the TDCJ'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 TDCJ fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the TDCJ to pay all or part of the deferred penalty. Two Thousand Three Hundred Seventy-Six Dollars (\$2,376) shall be conditionally offset by the TDCJ's completion of a Supplemental Environmental Project.
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 TDCJ 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 TDCJ has implemented the following corrective measures at the Facility:
 - a. Removed sludge from the oxidation ditch and increased the removal rate from weekly to daily to achieve compliance with permitted effluent limitations by September 30, 2006; and
 - b. Submitted revised Discharge Monitoring Reports for the months of April and October 2006 to TCEQ by March 15, 2007.
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 TDCJ 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 TDCJ is alleged to have:

1. Failed to comply with ammonia-nitrogen permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10829001, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on February 13, 2007 and shown in the following table:

3. The provisions of this Agreed Order shall apply to and be binding upon the TDCJ. The TDCJ 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 TDCJ fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the TDCJ's failure to comply is not a violation of this Agreed Order. The TDCJ has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The TDCJ shall notify the Executive Director within seven days after the TDCJ 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 TDCJ shall be made in writing to the Executive Director. Extensions are not effective until the TDCJ 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 TDCJ 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 TDCJ, or three days after the date on which the Commission mails notice of the Order to the TDCJ, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Texas Department of Criminal Justice
DOCKET NO. 2007-0514-MWD-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdli
For the Executive Director

9/7/07
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 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 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.

Charles R. Marsh
Signature

6/13/07
Date

CHARLES R MARSH
Name (Printed or typed)
Authorized Representative of
Texas Department of Criminal Justice

CHIEF FINANCIAL OFFICER
Title

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

Attachment A
Docket Number: 2007-0514-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Criminal Justice
Payable Penalty Amount:	Two Thousand Three Hundred Seventy-Six Dollars (\$2,376)
SEP Amount:	Two Thousand Three Hundred Seventy-Six Dollars (\$2,376)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	Brazoria 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 provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

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.

