EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1842-MWD-E **TCEQ ID:** RN103119087 **CASE NO.:** 31478

RESPONDENT NAME: City of Uvalde

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: City of Uvalde Wastewater Treatment Plant, 1.3 miles southwest of the intersection of Farm-to-Market Road 117 and US Highway 83, Uvalde County

TYPE OF OPERATION: Wastewater treatment plant

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 11, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175
TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: The Honorable Josue Garza, Jr., Mayor, City of Uvalde, Post Office Box 799, Uvalde, Texas 78802-0799
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:** September 27, 2006 **Date of NOE Relating to this Case:** October 12, 2006 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **WATER** Failed to comply with the permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010306001, Effluent Limitations and Monitoring Requirements, No. 1 for Outfalls 001A, 002A, and 003A, and TEX. WATER CODE § 26.121(a)].	**Total Assessed:** $21,750 **Total Deferred:** $4,350 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $17,400 **Total Paid to General Revenue:** $0 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the Respondent performed maintenance on equipment to come into compliance with permitted effluent limitations on August 8, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).

Attachment A
Docket Number: 2006-1842-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Uvalde
Penalty Amount:	Seventeen Thousand Four Hundred Dollars ($17,400)
SEP Offset Amount:	Seventeen Thousand Four Hundred Dollars ($17,400)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Uvalde County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the 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.

1. Project Description

A. Project

The Respondent shall conduct a city-wide waste tire collection event and illegal tire dump clean up program. The collection event will occur during a one-month period, be advertised to the public, and allow for proper disposal of waste tires at no cost to the residents. The illegal tire dump clean up program will target low- to mid-income communities or public rights-of-way where no responsible party can be found for the illegal dumps. The Respondent shall conduct the events until such time as it has expended the requisite amount of SEP offset.

The Respondent shall ensure that the waste tire collection event:

- occurs during daylight hours;
- offers to the public convenient drop-off locations;
- offers assistance to the public at each collection station;
- involves the placement of trailers or collection bins where residents may dispose of the tires;
- is organized and conducted by City employees, contract and volunteer labor;
- is advertised in a newspaper of large circulation in the city

The Respondent shall ensure that the illegal tire dump cleanup:

- occurs during daylight hours;
- is organized and conducted by City employees, contract labor, or volunteers;
- is conducted on properties for which a responsible party cannot be located or the owner does not have the financial resources to complete the cleanup; and

- complies with all local, state, and federal regulations

The Respondent shall collect, transport, and dispose of or recycle the collected wastes. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of City employees or standard wages for contract labor, public announcement of the events, no dumping signs, disposal fees, and other reasonable direct costs associated with conducting the events.

The Respondent shall perform this project in accordance with all federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

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 also provide a discernible environmental benefit by providing for the proper disposal of waste tires (and other debris) that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Removal of the illegal tire dumps will help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The cleanup will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

The Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. The Respondent shall thereafter submit a report quarterly, providing the progress to that date, a report of expenditures made, and a plan for completing the remaining portions of the project.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires or other wastes collected;
5. Evidence of proper disposal of tires and wastes;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. The Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, the Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state 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.

7. Clean Texas Program

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

8. 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 orders negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 10, 2005*

DATES **Assigned** 16-Oct-2006 **PCW** 23-Oct-2006 **Screening** 17-Oct-2006 **EPA Due** 05-Dec-2006

RESPONDENT/FACILITY INFORMATION

Respondent City of Uvalde
Reg. Ent. Ref. No. RN103119087
Facility/Site Region 13-San Antonio **Major/Minor Source** Major Source

CASE INFORMATION

Enf./Case ID No. 31478 **No. of Violations** 1
Docket No. 2006-1842-MWD-E **Order Type** 1660
Media Program(s) Water Quality **Enf. Coordinator** Samuel Short
Multi-Media **EC's Team** Enforcement Team 4
Admin. Penalty $ Limit Minimum $0 **Maximum** $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $12,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **99%** Enhancement *Subtotals 2, 3, & 7* $12,375

Notes: A 99% enhancement is recommended for having 19 self reported effluent violations and two non-similar NOVs within the last five years.

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

Notes: The respondent does not meet culpability criteria.

Good Faith Effort to Comply **25%** Reduction *Subtotal 5* -$3,125

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

Notes: The respondent performed maintenance on equipment to come into compliance with permitted effluent limitations on August 8, 2006.

Economic Benefit **0%** Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts $125
Approx. Cost of Compliance $5,000

SUM OF SUBTOTALS 1-7 **Final Subtotal** $21,750

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** $0

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

Notes:

Final Penalty Amount $21,750

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** $21,750

DEFERRAL 20% Reduction **Adjustment** -$4,350

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 $17,400

Screening Date 17-Oct-2006 **Docket No.** 2006-1842-MWD-E **PCW**
Respondent City of Uvalde *Policy Revision 2 (September 2002)*
Case ID No. 31478 *PCW Revision May 10, 2005*
Reg. Ent. Reference No. RN103119087
Media [Statute] Water Quality
Enf. Coordinator Samuel Short

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)*	19	95%
	Other written NOVs	2	4%
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*	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) **99%**

>> **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 A 99% enhancement is recommended for having 19 self reported effluent violations and two non-similar NOVs within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **99%**

Screening Date 17-Oct-2006 **Docket No.** 2006-1842-MWD-E **PCW**

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

Case ID No. 31478 *PCW Revision May 10, 2005*

Reg. Ent. Reference No. RN103119087

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Primary Rule Cite(s) 30 TAC § 305.125(1), TPDES Permit No. WQ0010306001, Effluent Limitations and Monitoring Requirements, No. 1 for Outfalls 001A, 002A, and 003A, and Texas Water Code § 26.121(a)

Secondary Rule Cite(s)

Violation Description Failure to comply with the permitted effluent limits as documented during a record review conducted on September 27, 2006. See attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: 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 as a result of the violation.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 5

mark only one use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $12,500

Five quarterly events are recommended, one for outfall 001A, two for outfall 002A, and two for outfall 003A.

Economic Benefit (EB) for this violation

Estimated EB Amount $125

Statutory Limit Test

Violation Final Penalty Total $21,750

This violation Final Assessed Penalty (adjusted for limits) $21,750

Economic Benefit Worksheet

Respondent City of Uvalde
Case ID No. 31478
Reg. Ent. Reference No. RN103119087
Media [Statute] Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)	$5,000	31-Mar-2006	08-Aug-2006	0.4	$6	$119	$125
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)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The date required is the date the noncompliances started and the final date is the compliance date.

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 $5,000

TOTAL $125

Attachment 1

Effluent Limit Violation Table for Violation No. 1	
Respondent	City of Uvalde
ID Number(s)	TPDES Permit No. WQ0010306001; Enforcement Case No. 31478
Docket No.	2006-1842-MWD-E
Enf. Coordinator	Samuel Short

EFFLUENT PARAMETER
Permit Limit

	TSS Daily Average			TSS Daily Maximum		
	001A	002A	003A	001A	002A	003A
Month/Year	15 mg/L	15 mg/L	15 mg/L	40 mg/L	40 mg/L	40 mg/L
March 2006	17	17	17	c	c	c
May 2006	26	26	26	c	c	c
June 2006	c	29	29	c	42	42

Term	Abbreviation
milligrams per Liter	mg/L
compliant	c
total suspended solids	TSS

Compliance History

Customer/Respondent/Owner-Operator:	CN600648455	City of Uvalde	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN103119087	CITY OF UVALDE WWTP	Classification: AVERAGE	Site Rating: 0.97

ID Number(s):	WASTE WATER GENERAL PERMIT	PERMIT	TPDES10306
	WASTE WATER GENERAL PERMIT	PERMIT	TX0023094
	WASTEWATER	PERMIT	WQ0010306001
	WASTEWATER	PERMIT	TPDES0023094
	WASTEWATER	PERMIT	TX0023094
	WASTEWATER LICENSING	LICENSE	WQ0010306001

Location: LOCATED APPROXIMATELY 1.3 MILES SOUTHWEST OF INTERSECTION OF FM ROAD 117 & US HIGHWAY 83 IN UVALDE COUNTY, TEXAS.

Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: December 11, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 20, 2001 to October 20, 2006

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

Name: Samuel Short Phone: (512) 239-5363

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.

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	02/13/2003	(19940)
2	03/18/2005	(382701)
3	12/20/2004	(382702)
4	12/15/2005	(449460)
5	02/27/2006	(469853)
6	03/17/2006	(469854)
7	10/20/2005	(469855)
8	11/16/2005	(469856)
9	10/12/2006	(514314)
10	04/18/2005	(420501)
11	12/20/2005	(469857)
12	02/11/2003	(299054)
13	05/17/2005	(420502)
14	02/17/2004	(299055)
15	03/31/2006	(469858)
16	06/21/2005	(420503)
17	03/13/2002	(299056)
18	06/29/2005	(420504)
19	05/09/2005	(420505)
20	03/14/2003	(299057)
21	07/31/2005	(393200)
22	03/22/2004	(299059)
23	09/21/2005	(441544)
24	04/05/2002	(299060)
25	02/11/2002	(166946)
26	04/12/2004	(299061)
27	05/10/2002	(299063)
28	05/14/2004	(299064)
29	06/10/2002	(299066)
30	06/14/2004	(299067)
31	04/14/2003	(166951)
32	04/05/2002	(299069)
33	07/17/2003	(299070)

34 05/08/2003 (166954)
35 08/12/2002 (299072)
36 08/13/2003 (299073)
37 06/20/2003 (166957)
38 09/20/2002 (299075)
39 09/12/2003 (299076)
40 03/16/2006 (496969)
41 10/09/2002 (299078)
42 10/17/2003 (299079)
43 08/17/2006 (521133)
44 11/20/2002 (299080)
45 11/18/2003 (299081)
46 09/11/2006 (521134)
47 12/16/2002 (299082)
48 12/12/2003 (299083)
49 11/20/2002 (299084)
50 11/15/2005 (449395)
51 01/22/2004 (299085)
52 11/12/2001 (166968)
53 08/11/2004 (353590)
54 04/19/2006 (499086)
55 08/25/2004 (353591)
56 09/20/2004 (353592)
57 05/15/2006 (499087)
58 12/12/2001 (166971)
59 10/14/2004 (353593)
60 06/19/2006 (499088)
61 11/18/2004 (353594)
62 10/29/2004 (353595)
63 05/25/2006 (499089)
64 02/23/2005 (382700)
65 01/14/2002 (166974)

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

Date: 01/31/2005 (382700)
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 (382701)
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: 11/30/2004 (382702)
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: 08/02/2005 (393200)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to install a totalizer meter at Outfall 001.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to maintain the composite samples in the Outfall 001 compositer at the recommended 4 degrees Celsius.

Date: 03/31/2005 (420501)
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 (420502)
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: 05/31/2005 (420503)
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 (299056)
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: 03/31/2002 (299060)
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: 01/31/2002 (166946)
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 (166957)
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 (299075)
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 (420504)
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: 03/16/2006 (496969)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Date: 07/31/2006 (521133)

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: 06/30/2006 (499089)
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: 10/31/2001 (166968)
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 (499086)
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: 11/30/2001 (166971)
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: 05/31/2006 (499088)
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: 12/31/2001 (166974)

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 UVALDE	§	
RN103119087	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1842-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 City of Uvalde (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 approximately 1.3 miles southwest of the intersection of Farm-to-Market Road 117 and US Highway 83 in Uvalde 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 October 17, 2006.

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 Twenty One Thousand Seven Hundred Fifty Dollars ($21,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Thousand Three Hundred Fifty Dollars ($4,350) 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. Seventeen Thousand Four

Hundred Dollars ($17,400) shall be conditionally offset by the City'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 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 performed maintenance on equipment to come into compliance with permitted effluent limitations on August 8, 2006.

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 failed to comply with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010306001, Effluent Limitations and Monitoring Requirements, No. 1 for Outfalls 001A, 002A, and 003A, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on September 27, 2006 and shown in the following table:

	TSS Daily Average			TSS Daily Maximum		
	001A	002A	003A	001A	002A	003A
Month/Year	15 mg/L	15 mg/L	15 mg/L	40 mg/L	40 mg/L	40 mg/L
March 2006	17	17	17	c	c	c
May 2006	26	26	26	c	c	c
June 2006	c	29	29	c	42	42

Term	Abbreviation
milligrams per Liter	mg/L
compliant	c

Term	Abbreviation
total suspended solids	TSS

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 Uvalde, Docket No. 2006-1842-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, Seventeen Thousand Four Hundred Dollars ($17,400) 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 schedules, and that failure is caused solely 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

_____ 8/23/07
For the Executive Director 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.

_____ 04-02-07
Signature Date

Josue (George) Garza, Jr. Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Uvalde

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 Numbers: 2006-1842-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Uvalde
Penalty Amount:	Seventeen Thousand Four Hundred Dollars ($17,400)
SEP Offset Amount:	Seventeen Thousand Four Hundred Dollars ($17,400)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Uvalde County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the 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.

1. Project Description

A. Project

The Respondent shall conduct a city-wide waste tire collection event and illegal tire dump clean up program. The collection event will occur during a one-month period, be advertised to the public, and allow for proper disposal of waste tires at no cost to the residents. The illegal tire dump clean up program will target low- to mid-income communities or public rights-of-way where no responsible party can be found for the illegal dumps. The Respondent shall conduct the events until such time as it has expended the requisite amount of SEP offset.

The Respondent shall ensure that the waste tire collection event:

- occurs during daylight hours;
- offers to the public convenient drop-off locations;
- offers assistance to the public at each collection station;
- involves the placement of trailers or collection bins where residents may dispose of the tires;
- is organized and conducted by City employees, contract and volunteer labor;
- is advertised in a newspaper of large circulation in the city

The Respondent shall ensure that the illegal tire dump cleanup:

- occurs during daylight hours;
- is organized and conducted by City employees, contract labor, or volunteers;
- is conducted on properties for which a responsible party cannot be located or the owner does not have the financial resources to complete the cleanup; and

- complies with all local, state, and federal regulations

The Respondent shall collect, transport, and dispose of or recycle the collected wastes. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of City employees or standard wages for contract labor, public announcement of the events, no dumping signs, disposal fees, and other reasonable direct costs associated with conducting the events.

The Respondent shall perform this project in accordance with all federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

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 also provide a discernible environmental benefit by providing for the proper disposal of waste tires (and other debris) that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Removal of the illegal tire dumps will help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The cleanup will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

The Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. The Respondent shall thereafter submit a report quarterly, providing the progress to that date, a report of expenditures made, and a plan for completing the remaining portions of the project.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires or other wastes collected;
5. Evidence of proper disposal of tires and wastes;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. The Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, the Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state 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.

7. Clean Texas Program

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

8. 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 orders negotiated with the TCEQ or any other agency of the state or federal government.