

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0353-MWD-E **TCEQ ID:** RN101388288 **CASE NO.:** 32879

RESPONDENT NAME: City of Rockdale

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: City of Rockdale WWTF, located southwest of the intersection of Beverly Road and Southern Pacific Railroad, Milam County</p> <p>TYPE OF OPERATION: Wastewater treatment system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received November 29, 2006 stating that red worms were in the discharge channel coming from the wastewater treatment facility. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed the desire to protest this action or to speak at Agenda.</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. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable John C. Shoemaker, Mayor, City of Rockdale, P.O. Box 586, Rockdale, Texas 76567-0586; Mr. T. Fleming, City Manager, City of Rockdale, P.O. Box 586, Rockdale, Texas 76567-0586 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: November 29, 2006</p> <p>Date of Investigation Relating to this Case: November 29, 2006</p> <p>Date of NOE Relating to this Case: February 6, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. One violation was documented.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge and accumulation of sludge in the receiving stream. Specifically, the investigator documented that the sludge was visible from the point of discharge (the outfall) to beyond 445 yards downstream and the measured depth ranged from four inches to one foot. Many areas were septic in nature and infested with bloodworms. Samples taken five yards below the discharge point and 315 yards downstream from the discharge point contained high concentrations of nitrogen and phosphorus [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4) and (5), and Texas Pollutant Discharge Elimination System Permit No. WQ0010658001, Permit Conditions No. 2.d.].</p>	<p>Total Assessed: \$7,100</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,100</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>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that on or before December 5, 2006, the City vacuumed and properly disposed of the accumulated solids and sludge from the receiving stream and disinfected the affected area.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p>

Attachment A
Docket Number: 2007-0353-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Rockdale
Penalty Amount:	Seven Thousand One Hundred Dollars (\$7,100)
SEP Offset Amount:	Seven Thousand One Hundred Dollars (\$7,100)
Type of SEP:	Custom with Pre-approved Concept – <i>tire collection event</i>
Location of SEP:	Milam 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 hold a one-day city-wide used tire collection clean up event and shall recycle reusable tires. The Respondent shall ensure that the final transport and disposal or recycling of tires will be conducted by a certified contractor. The Respondent shall post NO DUMPING signs in publicly owned areas within the City limits that experience chronic tire dumping.

The Respondent shall further ensure that the event:

- occurs on a pre-advertised day during daylight hours;
- offers to the public a free means of disposing of waste tires;
- is organized and conducted by City employees that will collect tires from creek beds, dump areas, and low-income residential areas; and
- is advertised in a newspaper of large circulation in the geographic area.

The Respondent shall collect, coordinate transport and disposal/recycling of the collected tires. SEP monies will be used for heavy equipment including roll-off bins, trailers, over time labor of employees, public announcement of the event, and transport and disposal fees. The Respondent shall contract with a certified contractor for final disposition of the tires.

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 provide a discernible environmental benefit by providing for the proper disposal of tires from illegal tire dumps. Disposal of the tires will help rid the community of the attractive nuisance that can harbor vermin and mosquitoes that can carry West Nile virus and other disease. The cleanup will also help prevent release of harmful chemicals into the environment should the 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. There are no other interim performance milestones for this one-day collection and recycling event.

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 collected, along with number of tires recycled;
5. Manifests indicating proper disposal or recycling of tires;
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

City of Rockdale
Agreed Order – Attachment A 2007-0353-MWD-E

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)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	19-Feb-2007	Screening	7-Mar-2007	EPA Due	
	PCW	19-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Rockdale
Reg. Ent. Ref. No.	RN101388288
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32879	No. of Violations	1	
Docket No.	2007-0353-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen	
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	\$5,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	67% Enhancement	Subtotals 2, 3, & 7	\$3,350
---------------------------	-----------------	--------------------------------	---------

Notes

The penalty is enhanced because the Respondent self-reported five monthly effluent violations, received one NOV with violations not same or similar to those cited in this action, and received two agreed final enforcement orders containing a denial of liability.

Culpability	No	0% Enhancement	Subtotal 4	\$0
--------------------	----	----------------	-------------------	-----

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$1,250
------------------------------------	---------------	-------------------	---------

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

Notes

The Respondent came into compliance on December 5, 2006.

	0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$4	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$5,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,100
-----------------------------	-----------------------	---------

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	\$7,100
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,100
-----------------------------------	-------------------------------	---------

DEFERRAL	0% Reduction	Adjustment	\$0
-----------------	--------------	-------------------	-----

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$7,100
------------------------	---------

Screening Date 7-Mar-2007

Docket No. 2007-0353-MWD-E

PCW

Respondent City of Rockdale

Policy Revision 2 (September 2002)

Case ID No. 32879

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101388288

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

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)	5	25%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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 of consent decrees containing a denial of liability of this state or the federal government (number of judgments 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) 67%

>> 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 five monthly effluent violations, received one NOV with violations not same or similar to those cited in this action, and received two agreed final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 67%

Screening Date 7-Mar-2007

Docket No. 2007-0353-MWD-E

PCW

Respondent City of Rockdale

Policy Revision 2 (September 2002)

Case ID No. 32879

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101388288

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(4) and (5), and Texas Pollutant Discharge Elimination System Permit No. WQ0010658001, Permit Conditions No. 2.d.

Violation Description Failed to prevent the unauthorized discharge and accumulation of sludge in the receiving stream. Specifically, the investigator documented that the sludge was visible from the point of discharge (the outfall) to beyond 445 yards downstream and the measured depth ranged from four inches to one foot. Many areas were septic in nature and infested with bloodworms. Samples taken five yards below the discharge point and 315 yards downstream from the discharge point contained high concentrations of nitrogen and phosphorus, as described in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health and the environment have been exposed to pollutants which exceed levels protective of human health or environmental receptors as a result of this discharge.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 6

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

Violation Base Penalty \$5,000

One monthly event is recommended from the investigation date (November 29, 2006) to the date of compliance (December 5, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$7,100

This violation Final Assessed Penalty (adjusted for limits) \$7,100

Economic Benefit Worksheet

Respondent: City of Rockdale
Case ID No.: 32879
Reg. Ent. Reference No.: RN101388288
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$5,000	29-Nov-2006	5-Dec-2006	0.0	\$4	n/a	\$4
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and dispose of the accumulated solids and sludge in the receiving stream. Date required is the investigation date. Final date is 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

\$5,000

TOTAL

\$4

SAMPLE RESULTS

Investigation Date: November 29, 2006

City of Rockdale

Docket No. 2007-0353-MWD-E

Parameter	Discharge Point	315 yards downstream
NH3-N (mg/L)	58.4	87.0
TKN (mg/L)	70.4	100.0
Tot-PO4 (mg/L)	13.6	22.04
O-PO4 (mg/L)	13.5	22.0

mg/L = milligrams per liter
NH3-N = ammonia nitrogen

O-PO4 = ortho-phosphate
TKN = total kjeldahl nitrogen

Tot-PO4 = total phosphorus

Compliance History

Customer/Respondent/Owner-Operator: CN600636534 City of Rockdale Classification: AVERAGE Rating: 2.90
Regulated Entity: RN101388288 CITY OF ROCKDALE Classification: AVERAGE Site Rating: 2.48
ID Number(s): WASTEWATER PERMIT WQ0010658001
WASTEWATER PERMIT TPDES0027197
WASTEWATER PERMIT TX0027197
WASTEWATER PERMIT WQ0010658001
WASTEWATER LICENSING LICENSE WQ0010658001
Location: SW OF INTSX OF BEVERLY RD AND SOUTHERN PACIFIC RAILROAD, MILAM CO, TX Rating Date: September 01 06
Repeat Violator:NO
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: March 05, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 05, 2002 to March 05, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Lynley Doyen Phone: 512-239-1364

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: 03/05/2004 ADMINORDER 2003-0075-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Not specified PERMIT
Description: Failure to comply with the permit limit for Total Suspended Solids, Ammonia Nitrogen, and Residual Chlorine at Outfall 001A.

Effective Date: 07/14/2006 ADMINORDER 2006-0032-MLM-E
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Operational Requirements, No. 1 Pg. 9 PERMIT
Description: Failure by the permittee to prevent the discharge and accumulation of sludge in the receiving water.

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 03/11/2002 (175205)
2 04/15/2002 (175208)
3 05/09/2002 (175211)
4 06/13/2002 (175213)
5 06/26/2002 (IE0018383001001)
6 07/09/2002 (175215)
7 08/14/2002 (175217)
8 09/09/2002 (175219)
9 10/07/2002 (175221)
10 11/20/2002 (175223)
11 12/16/2002 (175225)
12 01/13/2003 (175226)
13 03/03/2003 (302650)
14 03/18/2003 (175206)
15 04/15/2003 (175209)
16 05/20/2003 (302654)
17 06/23/2003 (302655)
18 07/14/2003 (302656)

19 08/26/2003 (302657)
20 09/23/2003 (302658)
21 10/10/2003 (302659)
22 11/17/2003 (302660)
23 12/15/2003 (302661)
24 01/14/2004 (302662)
25 02/17/2004 (302651)
26 03/05/2004 (302652)
27 04/13/2004 (302653)
28 05/12/2004 (354987)
29 06/24/2004 (354988)
30 07/16/2004 (354989)
31 08/12/2004 (354990)
32 09/09/2004 (354991)
33 10/12/2004 (354992)
34 11/03/2004 (383468)
35 12/09/2004 (383469)
36 01/11/2005 (383470)
37 02/15/2005 (421328)
38 03/17/2005 (383467)
39 04/08/2005 (421329)
40 05/09/2005 (421330)
41 06/13/2005 (421331)
42 07/08/2005 (442309)
43 08/22/2005 (442310)
44 09/09/2005 (442311)
45 10/05/2005 (471268)
46 11/08/2005 (471269)
47 12/09/2005 (471270)
48 01/13/2006 (471271)
49 01/20/2006 (350481)
50 02/09/2006 (471266)
51 03/20/2006 (471267)
52 04/10/2006 (500003)
53 05/11/2006 (500004)
54 06/16/2006 (500005)
55 07/13/2006 (522111)
56 08/07/2006 (522112)
57 09/15/2006 (522113)
58 01/19/2007 (536035)

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

Date: 06/30/2002 (175215)

Self Report? YES
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

Classification: Moderate

Date: 08/31/2002 (175219)

Self Report? YES
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

Classification: Moderate

Date: 12/31/2002 (175228)

Self Report? YES
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

Classification: Moderate

Date: 05/31/2003 (302655)

Self Report? YES
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

Classification: Moderate

Date: 06/30/2004 (354989)

Self Report? YES
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

Classification: Moderate

Date: 08/26/2005 (400274)

Self Report? NO
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)
Rqmt Prov: PERMIT Monitoring & Reporting Reqs. No.7 Pg.5
Description: Failure by the permittee to orally notify the TCEQ of an unauthorized discharge within 24 hours and provide written notification within 5 days of becoming aware of the noncompliance.

Classification: Moderate

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
CITY OF ROCKDALE
RN101388288**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0353-MWD-E**

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 Rockdale (“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 presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment system located southwest of the intersection of Beverly Road and Southern Pacific Railroad in Milam County, Texas (the “Facility”).

2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on November 29, 2006, TCEQ staff documented the accumulation of sludge in the receiving stream, which was visible from the discharge point (the outfall) to beyond 445 yards downstream. The measured depth ranged from four inches to one foot. Many areas were septic in nature and infested with bloodworms. Samples taken five yards below the outfall and 315 yards downstream from the outfall contained high concentrations of nitrogen and phosphorus, as described in the following table:

SAMPLE RESULTS		
Parameter	Discharge Point	315 yards downstream
NH3-N (mg/L)	58.4	87.0
TKN (mg/L)	70.4	100.0
Tot-PO4 (mg/L)	13.6	22.04
O-PO4 (mg/L)	13.5	22.0

mg/L = milligrams per liter

O-PO4 = ortho-phosphate

Tot-PO4 = total phosphorus

NH3-N = ammonia nitrogen

TKN = total kjeldahl nitrogen

4. The City received notice of the violations on February 11, 2007.
5. The Executive Director recognizes that on or before December 5, 2006, the City vacuumed and properly disposed of the accumulated solids and sludge from the receiving stream and disinfected the affected area.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to prevent the unauthorized discharge and accumulation of sludge in the receiving stream, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4) and (5), and Texas Pollutant Discharge Elimination System Permit No. WQ0010658001, Permit Conditions No. 2.d.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Seven Thousand One Hundred Dollars (\$7,100) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Seven Thousand One Hundred Dollars (\$7,100) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Seven Thousand One Hundred Dollars (\$7,100) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rockdale, Docket No. 2007-0353-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 II, Paragraph 4 above, Seven Thousand One Hundred Dollars (\$7,100) 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/7/07

Date

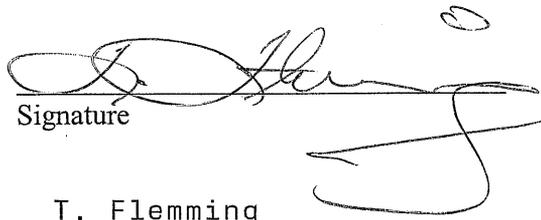
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Rockdale. I am authorized to agree to the attached Agreed Order on behalf of City of Rockdale, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment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

I understand that by entering into this Agreed Order, City of Rockdale waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.



Signature

T. Flemming

Name (Printed or typed)
Authorized Representative of
City of Rockdale

June 11, 2007

Date

City Manager

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: 2007-0353-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Rockdale
Penalty Amount: Seven Thousand One Hundred Dollars (\$7,100)
SEP Offset Amount: Seven Thousand One Hundred Dollars (\$7,100)
Type of SEP: Custom with Pre-approved Concept – *tire collection event*
Location of SEP: Milam 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 hold a one-day city-wide used tire collection clean up event and shall recycle reusable tires. The Respondent shall ensure that the final transport and disposal or recycling of tires will be conducted by a certified contractor. The Respondent shall post NO DUMPING signs in publicly owned areas within the City limits that experience chronic tire dumping.

The Respondent shall further ensure that the event:

- occurs on a pre-advertised day during daylight hours;
- offers to the public a free means of disposing of waste tires;
- is organized and conducted by City employees that will collect tires from creek beds, dump areas, and low-income residential areas; and
- is advertised in a newspaper of large circulation in the geographic area.

The Respondent shall collect, coordinate transport and disposal/recycling of the collected tires. SEP monies will be used for heavy equipment including roll-off bins, trailers, over time labor of employees; public announcement of the event, and transport and disposal fees. The Respondent shall contract with a certified contractor for final disposition of the tires.

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 provide a discernible environmental benefit by providing for the proper disposal of tires from illegal tire dumps. Disposal of the tires will help rid the community of the attractive nuisance that can harbor vermin and mosquitoes that can carry West Nile virus and other disease. The cleanup will also help prevent release of harmful chemicals into the environment should the 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. There are no other interim performance milestones for this one-day collection and recycling event.

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 collected, along with number of tires recycled;
5. Manifests indicating proper disposal or recycling of tires;
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

City of Rockdale
Agreed Order – Attachment A 2007-0353-MWD-E

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.

