EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1507-MWD-E **TCEQ ID:** RN102314465 **CASE NO.:** 31017

RESPONDENT NAME: Texas Department of Criminal Justice

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	X WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Texas Department of Criminal Justice Eastham Unit, located approximately 2.7 miles west of the intersection of the Prison Service Road with Farm-to-Market Road 230 and approximately 14.5 miles west of Trinity, Houston County

TYPE OF OPERATION: Municipal wastewater system

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. 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 January 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768

TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Section I, MC 169, (512) 239-1364; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Frank Inmon, Director, Facilities Division, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342
Mr. Charles Marsh, Chief Financial Officer, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342

Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

RESPONDENT'S NAME: Texas Department of Criminal Justice
DOCKET NO.: 2006-1507-MWD-E

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:** July 12, 2006 **Date of NOE Relating to this Case:** August 18, 2006 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **WATER** Failed to comply with the permitted effluent limits at Outfall 001 [TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11181001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 2 and 30 TEX. ADMIN. CODE § 305.125(1)].	**Total Assessed:** $5,130 **Total Deferred:** $1,026 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $4,104 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification:** __High _X_ Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A). 2) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits for TPDES Permit No. 11181001. The certification shall include detailed supporting documentation, including receipts and/or other records to demonstrate compliance.

Attachment: Site Compliance History

Attachment A
Docket Number: 2006-1507-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Texas Department of Criminal Justice**
Payable Penalty Amount:	**Four Thousand One Hundred Four Dollars ($4,104)**
SEP Amount:	**Four Thousand One Hundred Four Dollars ($4,104)**
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:	**Houston 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

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)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	21-Aug-2006				
PCW	30-Aug-2006	Screening	30-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Department of Criminal Justice		
Reg. Ent. Ref. No.	RN102314465		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31017	No. of Violations	1
Docket No.	2006-1507-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Brian Lehmkuhle
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 81% Enhancement *Subtotals 2, 3, & 7* $2,430

Notes: The respondent has self-reported effluent violations in 15 months, and was provided three Notice of Violation letters for dissimilar violations.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: Does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: Does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$4,057
Approx. Cost of Compliance	$32,500

SUM OF SUBTOTALS 1-7 Final Subtotal $5,430

OTHER FACTORS AS JUSTICE MAY REQUIRE 6% Reduction Adjustment -$300

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

Notes: Recommended reduction in penalty amount so that monthly self-reported violations do not overly impact the penalty amount.

Final Penalty Amount $5,130

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $5,130

DEFERRAL 20% Reduction Adjustment -$1,026

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 $4,104

PCW

Screening Date	30-Aug-2006
Docket No.	2006-1507-MWD-E
Respondent	Texas Department of Criminal Justice
Case ID No.	31017
Reg. Ent. Reference No.	RN102314465
Media [Statute]	Water Quality
Enf. Coordinator	Brian Lehmkuhle

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

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)*	15	75%
	Other written NOVs	3	6%
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) **81%**

>> 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 respondent has self-reported effluent violations in 15 months, and was provided three Notice of Violation letters for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **81%**

PCW

Screening Date	30-Aug-2006
Docket No.	2006-1507-MWD-E
Respondent	Texas Department of Criminal Justice
Case ID No.	31017
Reg. Ent. Reference No.	RN102314465
Media [Statute]	Water Quality
Enf. Coordinator	Brian Lehmkuhle

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Violation Number 1

Primary Rule Cite(s) TPDES Permit No. 11181001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 2; and Tex. Water Code § 26.121(a)

Secondary Rule Cite(s) 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to comply with permitted effluent limits at Outfall 001A, as detailed in an 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

Matrix Notes: The total suspended solids and other pollutants discharged at the time of the violations were insignificant and did not exceed levels that are protective of human health and the environment.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 3

mark only one use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,000

Three quarterly events are recommended for the months of August 2005 through February 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $4,057

Statutory Limit Test

Violation Final Penalty Total $5,130

This violation Final Assessed Penalty (adjusted for limits) $5,130

Economic Benefit Worksheet

Respondent Texas Department of Criminal Justice
Case ID No. 31017
Reg. Ent. Reference No. RN102314465
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)				0.0	$0	$0	$0
Engineering/construction	$30,000	31-May-2005	31-Mar-2007	1.8	$183	$3,666	$3,849
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$2,500	31-Aug-2005	30-Apr-2007	1.7	$208	n/a	$208

Notes for DELAYED costs Estimated capital/related costs for plant improvements required by the permit (Other Requirements) to meet stricter effluent limits that became effective in the permit's Final Phase, from the date required through the estimated date of compliance. Estimated cost for additional oversight, operational control, maintenance, sampling and other activities which might reduce or alleviate discharge noncompliances, from the first applicable month of violation through the estimated 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 $32,500

TOTAL $4,057

Effluent Limit Violation Table

Texas Department of Criminal Justice 2006-1507-MWD-E TPDES Permit No. 11181001 Outfall 001				
Month/Year, with violations	TSS, daily average concentration limit, 5.0 mg/L	TSS, daily maximum concentration limit, 20 mg/L	TSS, daily average loading limit, 41 lbs/day	TRC, total residual limit, min. 1.0 mg/L
Aug-05	9.4	c	68.2	c
Sept-05	13.0	28.0	94.1	c
Oct-05	15.4	26.0	122	c
Nov-05	7.75	c	45.6	c
Dec-05	7.75	c	54.2	c
Jan-06	9.0	c	44.2	0.85
Feb-06	9.0	c	64.8	c

lbs/day=pounds/day *min.*=minimum *mg/L*=milligrams/liter
TRC=total chlorine residual *TSS*=Total Suspended Solids

Compliance History

Customer/Respondent/Owner-Operator:	CN601550650	Texas Department of Criminal Justice	Classification: AVERAGE Rating: 2.58
Regulated Entity:	RN102314465	TDCJ EASTHAM UNIT	Classification: AVERAGE Site Rating: 2.52

ID Number(s):

DAM SAFETY	ID NUMBER	TX03287
DAM SAFETY	ID NUMBER	TX03286
WASTEWATER	PERMIT	WQ0011181001
WASTEWATER	PERMIT	TPDES0031593
WASTEWATER	PERMIT	TX0031593000
WASTEWATER AGRICULTURE	PERMIT	TXG920537
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1130004
INDUSTRIAL & HAZARDOUS WASTE GENERATION	EPA ID	TXD980747919
INDUSTRIAL & HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	70070
AIR NEW SOURCE PERMITS	PERMIT	44383
AIR NEW SOURCE PERMITS	PERMIT	45345
AIR NEW SOURCE PERMITS	PERMIT	45342
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HS0012U
AIR NEW SOURCE PERMITS	PERMIT	53361
AIR NEW SOURCE PERMITS	PERMIT	53612
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	36092
WASTEWATER LICENSING	LICENSE	WQ0011181001
WATER LICENSING	LICENSE	1130004
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	70070

Location: APPROXIMATELY 2.7 MILES WEST OF THE INTERSECTION OF THE PRISON SERVICE ROAD WITH FARM-TO-MARKET ROAD 230 AND APPROXIMATELY 14.5 MILES WEST OF THE CITY OF TRINITY, HOUSTON CO.

Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: August 30, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 30, 2001 to August 30, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Brian Lehmkuhle Phone: (512) 239-4482

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 07/30/2002 (177789)
2 09/03/2002 (177792)
3 10/02/2001 (177795)
4 10/01/2002 (177796)
5 11/01/2001 (177798)
6 08/11/2004 (355441)
7 03/25/2004 (303651)
8 08/19/2004 (355442)
9 11/15/2002 (177799)
10 06/26/2003 (303652)
11 09/03/2004 (355443)
12 06/26/2003 (303653)
13 10/21/2004 (355444)
14 12/03/2001 (177801)
15 06/26/2003 (303654)
16 08/25/2004 (355445)
17 12/09/2002 (177802)
18 09/25/2003 (303655)
19 12/27/2001 (177804)
20 10/09/2003 (303656)
21 10/09/2003 (303657)
22 11/20/2003 (303658)
23 02/05/2002 (177807)
24 12/01/2003 (303659)
25 02/13/2003 (177808)
26 01/10/2003 (303660)
27 02/04/2004 (303661)
28 03/02/2004 (303662)
29 09/14/2004 (333430)
30 04/07/2005 (421614)
31 04/07/2005 (421615)
32 06/16/2005 (421616)
33 06/16/2005 (421617)
34 04/07/2005 (421618)
35 04/07/2005 (421619)
36 04/07/2005 (421620)
37 04/07/2005 (421621)
38 03/10/2004 (259452)
39 04/07/2005 (421622)
40 08/18/2006 (486572)
41 03/14/2006 (471704)
42 04/28/2006 (500262)
43 05/11/2006 (463900)
44 05/18/2006 (500263)
45 06/01/2006 (500264)
46 09/30/2005 (442577)
47 10/17/2005 (442578)
48 10/31/2005 (471705)
49 08/09/2002 (4197)
50 08/29/2005 (442579)
51 11/04/2005 (471706)
52 12/02/2005 (471707)
53 01/06/2006 (471708)
54 12/11/2003 (252898)
55 02/10/2006 (471709)
56 02/28/2002 (177774)
57 03/19/2003 (177775)
58 04/01/2002 (177776)
59 12/29/2005 (437023)
60 03/19/2003 (177777)
61 04/29/2002 (177780)
62 07/22/2002 (177783)
63 07/22/2002 (177786)
64 07/15/2004 (355440)

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

Date: 09/30/2001 (177798)
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: 06/30/2003 (303655)
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: 12/28/2001 (177805)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (303658)
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: 11/30/2003 (303661)
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: 12/29/2005 (437023)
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: The dike on the polishing pond for the feeder slab was observed to be in poor condition and rill erosion was observed on the final pond serving the grower barn.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to cease land application or develop a NUP when soil extractable P levels exceed 200 ppm in Zone 1.

Date: 02/28/2006 (500262)
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 (500263)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2006 (471704)
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 (500264)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2005 (471705)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (471706)
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: 03/10/2004 (259452)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)
Description: Failure to provide scale for means of measuring quantity in chlorine gas cylinders.
Date: 10/31/2005 (471707)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2005 (471708)
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: 12/12/2003 (252898)
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure by the permittee to include additional pH and dissolved oxygen measurements in the calculation of self-reported data.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure by the permittee to comply with test procedures specified in 319.11 - 319.12.
Date: 12/31/2005 (471709)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 02/28/2003 (177777)
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 DEPARTMENT OF	§	**TEXAS COMMISSION ON**
CRIMINAL JUSTICE	§	
RN102314465	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1507-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. TDCJ owns and operates a municipal wastewater system located approximately 2.7 miles west of the intersection of the Prison Service Road with Farm-to-Market Road 230 and approximately 14.5 miles west of Trinity in Houston County, Texas (the "Facility").

2. TDCJ has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

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

4. TDCJ received notice of the violations alleged in Section II ("Allegations") on or about August 23, 2006.

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

6. An administrative penalty in the amount of Five Thousand One Hundred Thirty Dollars ($5,130) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Thousand One Hundred Four Dollars ($4,104) of the administrative penalty shall be conditionally offset by TDCJ's completion of a Supplemental Environmental Project and One Thousand Twenty-Six Dollars ($1,026) is deferred contingent upon 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 TDCJ fails to timely and satisfactorily comply

with all requirements of this Agreed Order, the Executive Director may require TDCJ to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and 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 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 TDCJ has not complied with one or more of the terms or conditions in this Agreed Order.

10. 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.

11. 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, TDCJ is alleged to have failed to comply with the permitted effluent limits at Outfall 001, in violation of TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11181001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 2 and 30 TEX. ADMIN. CODE § 305.125(1), as documented during a record review conducted on July 12, 2006 as follows:

Texas Department of Criminal Justice TPDES Permit No. 11181001 Outfall 001				
Month/Year, with violations	TSS, daily average concentration limit, 5.0 mg/L	TSS, daily maximum concentration limit, 20 mg/L	TSS, daily average loading limit, 41 lbs/day	TRC, total residual limit, min. 1.0 mg/L
Aug-05	9.4	c	68.2	c
Sept-05	13.0	28.0	94.1	c
Oct-05	15.4	26.0	122	c
Nov-05	7.75	c	45.6	c
Dec-05	7.75	c	54.2	c
Jan-06	9.0	c	44.2	0.85
Feb-06	9.0	c	64.8	c

lbs/day=pounds/day *min.*=minimum *mg/L*=milligrams/liter
TRC=total chlorine residual *TSS*=Total Suspended Solids

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that TDCJ pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and TDCJ'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: Texas Department of Criminal Justice, Docket No. 2006-1507-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. TDCJ 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, Four Thousand One Hundred Four Dollars ($4,104) of the assessed administrative penalty shall be offset with the condition that TDCJ implement the SEP defined in Attachment A, incorporated herein by reference. TDCJ'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. It is further ordered that TDCJ shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits for TPDES Permit No. 11181001. The certification shall include detailed supporting documentation, including receipts and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

   The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon TDCJ. 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.

5. If 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, TDCJ's failure to comply is not a violation of this Agreed Order. TDCJ shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. TDCJ shall notify the Executive Director within seven days after TDCJ becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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 TDCJ shall be made in writing to the Executive Director. Extensions are not effective until TDCJ receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against 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.

8. 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.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to TDCJ, or three days after the date on which the Commission mails notice of the Order to TDCJ, 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

_____ 2/26/07
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.

Charles R. Marsh 11/10/06
Signature Date

Charles Marsh CFO
Name (Printed or typed) Title
Authorized Representative of
Texas Department of Criminal Justice

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: 2006-1507-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Texas Department of Criminal Justice**
Payable Penalty Amount:	**Four Thousand One Hundred Four Dollars ($4,104)**
SEP Amount:	**Four Thousand One Hundred Four Dollars ($4,104)**
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:	**Houston 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

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.