EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1413-MLM-E **TCEQ ID:** RN102080603 and RN101203560 **CASE NO.:** 30927

RESPONDENT NAME: City of Edinburg

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	X PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
X MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	X WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: City of Edinburg Wastewater Treatment Plant, 1202 North M Road, and City of Edinburg Public Water Supply, 500 West Mahl Street, Edinburg, Hidalgo County

TYPE OF OPERATION: Wastewater treatment plant and public water supply

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.

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 February 26, 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. Kimberly Morales, Enforcement Division, Enforcement Section III, MC R-12, (713) 422-8938; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: The Honorable Joe Ochoa, Mayor, City of Edinburg, P.O. Box 1079, Edinburg, Texas 78540
Mr. Juan J. Rodriguez, Interim City Manager, City of Edinburg, P.O. Box 1079, Edinburg, Texas 78540

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

RESPONDENT'S NAME: City of Edinburg
DOCKET NO.: 2006-1413-MLM-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 **Dates of Investigations Relating to this Case:** August 14 and June 23, 2006 **Dates of NOEs Relating to this Case:** August 16 and August 18, 2006 (NOE) **Background Facts:** These were routine record reviews. Two violations were documented. **WATER** 1) Failed to comply with the permitted effluent limits for the Wastewater Facility [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10503002, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)]. 2) Failed to meet the minimum treatment plant capacity requirement of 0.6 gallons per minute per connection for the PWS Facility. Specifically, the water system has 20,268 connections and must provide a minimum treatment plant capacity of 17.512 million gallons per day ("MGD"). However, only 15.233 MGD is provided, which is approximately 15 percent deficient [30 TEX. ADMIN. CODE § 290.45(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].	**Total Assessed:** $10,213 **Total Deferred:** $2,043 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $8,170 **Total Paid (Due) to General Revenue:** $0 RN102080603 **Site Compliance History Classification:** __High _X_ Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** _X_ Yes ___ No RN101203560 **Site Compliance History Classification:** __High ___Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** _X_ Yes ___ 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: a. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10503002. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance; b. Within 180 days after the effective date of this Agreed Order, begin providing the minimum treatment plant capacity of 0.6 gallons per minute per connection at the PWS Facility; and c. Within 195 days after the effective date of this Agreed Order, submit documentation of compliance with Ordering Provision No. 2.b.

Attachment A
Docket Number: 2006-1413-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Edinburg**
Payable Penalty Amount:	**Eight Thousand One Hundred Seventy Dollars ($8,170)**
SEP Amount:	**Eight Thousand One Hundred Seventy Dollars ($8,170)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**The Rensselaerville Institute-"Self-Help Rio Grande"**
Location of SEP:	**Hidalgo 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 will contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, provide low income homeowners with failing on-site wastewater treatment systems or no system at all, with technical and financial assistance to install, repair, or replace those water and wastewater sewage systems. To reduce costs, the Third-Party Recipient teams with low income homeowners to solve water and wastewater problems by working together to build water and wastewater infrastructures. SEP contributions are to be used for material and labor costs.

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 homes with substandard water and wastewater service. This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from homes with substandard water and wastewater service.

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:

The Rensselaerville Institute
Marion Frowein
63 Huyck Road
Rensselaerville, NY 12147

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	22-Aug-2006				
PCW	11-Sep-2006	Screening	11-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Edinburg		
Reg. Ent. Ref. No.	RN101203560		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	30927	No. of Violations	1
Docket No.	2006-1413-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Brent Hurta
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 25% Enhancement *Subtotals 2, 3, & 7* $63

Notes: Enhancement due to one prior NOV with same or similar violations and one Agreed Order.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: Respondent did not meet 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: Respondent did not meet good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$989
Approx. Cost of Compliance	$7,000

SUM OF SUBTOTALS 1-7 Final Subtotal $313

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 $313

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $313

DEFERRAL 20% Reduction Adjustment -$63

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 $250

Screening Date	11-Sep-2006	Docket No. 2006-1413-MLM-E	PCW
Respondent	City of Edinburg		Policy Revision 2 (September 2002)
Case ID No.	30927		PCW Revision May 19, 2005
Reg. Ent. Reference No.	RN101203560		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Brent Hurta		

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)*	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	1	20%
	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) **25%**

>> 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 Enhancement due to one prior NOV with same or similar violations and one Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **25%**

Screening Date 11-Sep-2006 **Docket No.** 2006-1413-MLM-E **PCW**

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

Case ID No. 30927 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101203560

Media [Statute] Public Water Supply

Enf. Coordinator Brent Hurta

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(2)(B)

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.0315(c)

Violation Description Failure to meet the minimum treatment plant capacity requirement of 0.6 gallons per minute per connection, as documented during the June 23, 2006 record review. Specifically, the water system has 20,268 connections and must provide a minimum treatment plant capacity of 17.512 million gallons per day ("MGD"). However, only 15.233 MGD is provided, which is approximately 15 percent deficient.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Exceeding the facilities treatment plant capacity will or could expose human health to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -$750

Base Penalty Subtotal $250

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $250

One quarterly event is recommended from the June 23, 2006 record review date to the September 11, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $989

Statutory Limit Test

Violation Final Penalty Total $313

This violation Final Assessed Penalty (adjusted for limits) $313

Economic Benefit Worksheet

Respondent: City of Edinburg
Case ID No.: 30927
Reg. Ent. Reference No.: RN101203560
Media [Statute]: Public Water Supply
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	$7,000	24-Jun-2005	01-Jul-2007	2.0	$47	$942	$989
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated additional cost for increasing the facility's minimum treatment plant capacity. The Date Required was the date of the investigation. The Final Date is the expected 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: $7,000

TOTAL: $989

Compliance History

Customer/Respondent/Owner-Operator:	CN600647978	City of Edinburg	Classification: AVERAGE	Rating: 8.01
Regulated Entity:	RN101203560	CITY OF EDINBURG	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING		REGISTRATION LICENSE	1080004 1080004

Location: 500 W MAHL ST, EDINBURG, HIDALGO COUNTY

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: September 12, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 12, 2001 to September 12, 2006

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

Name: Brent Hurta Phone: 512-239-6589

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: 12/05/2003 ADMINORDER 2002-1408-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to operate the system to maintain a minimum water operating pressure of 35 psi throughout the distribution system under normal operating conditions of minimum 20 psi during emergencies such as fire fighting.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to maintain an accurate and up to date map of the distribution system so valves and mains can be easily located during emergencies.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(2)
Description: Failure to acquire plan approval by the exec director for service connections that require booster pumps taking suction from the PWS lines.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(3)
Description: Failure to equip the booster pumps at Pump Station 2 with automatic pressure cut off devices so the pumping units become inoperative at a suction pressure of less than 20 lbs/psi.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of .5 mg/L chloramine per agency regs.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(p)(1)
Description: Failure to issue a boil water notification w/in 24 hrs using the prescribed notification form as specified.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to initiate a maintenance program to ensure that the system's facilities and equipment are in good working condition. NW clarifier rusted and appeared to be offline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to initiate a maintenance program to ensure that the system's facilities and equipment are in good working condition. Rusting clarifier and support bars.

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 06/28/2006 (484405)
2 08/17/2005 (404148)
3 08/06/2004 (286863)
4 08/15/2002 (IE0018656001005)
5 08/30/2002 (2684)
6 09/07/2005 (431032)
7 08/21/2006 (486061)
8 08/19/2003 (149282)

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

Date: 08/17/2005 (404148)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)

Description: Failure to provide a treatment plant capacity of 0.6 gallon per minute per connection under normal flow rated design.

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

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	22-Aug-2006				
PCW	24-Aug-2006	Screening	24-Aug-2006	EPA Due	05-Dec-2006

RESPONDENT/FACILITY INFORMATION

Respondent	City of Edinburg		
Reg. Ent. Ref. No.	RN102080603		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	30927	No. of Violations	1
Docket No.	2006-1413-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Brent Hurta
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* $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 98% Enhancement *Subtotals 2, 3, & 7* $4,900

Notes: Enhancement due to 12 self-reported effluent violations, one prior NOV with same or similar violations, four prior NOVs without same or similar violations, and one Findings Order.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: Respondent did not meet 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: Respondent did not meet good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$575
Approx. Cost of Compliance	$5,000

SUM OF SUBTOTALS 1-7 Final Subtotal $9,900

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 $9,900

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $9,900

DEFERRAL 20% Reduction Adjustment -$1,980

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 $7,920

Screening Date	24-Aug-2006	**Docket No.** 2006-1413-MLM-E	**PCW**
Respondent	City of Edinburg		*Policy Revision 2 (September 2002)*
Case ID No.	30927		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN102080603		
Media [Statute]	Water Quality		
Enf. Coordinator	Brent Hurta		

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)*	13	65%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	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) **98%**

>> 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 Enhancement due to 12 self-reported effluent violations, one prior NOV with same or similar violations, four prior NOVs without same or similar violations, and one Findings Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **98%**

PCW

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

Screening Date	24-Aug-2006
Docket No.	2006-1413-MLM-E
Respondent	City of Edinburg
Case ID No.	30927
Reg. Ent. Reference No.	RN102080603
Media [Statute]	Water Quality
Enf. Coordinator	Brent Hurta
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System Permit No. 10503002, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)
Secondary Rule Cite(s)	
Violation Description	Failure to comply with the permitted effluent limits as shown in the attached violation table, as documented during the August 14, 2006 record review.

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: A simplified model was utilized to evaluate the values for five day carbonaceous biochemical oxygen demand and ammonia-nitrogen to determine whether the discharged amounts of the pollutants exceeded the levels protective of human health or environmental receptors. 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: 2

mark only one use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $5,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $575

Statutory Limit Test

Violation Final Penalty Total $9,900

This violation Final Assessed Penalty (adjusted for limits) $9,900

Economic Benefit Worksheet

Respondent: City of Edinburg
Case ID No.: 30927
Reg. Ent. Reference No.: RN102080603
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	01-Sep-2005	24-Apr-2007	1.6	$27	$548	$575
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 expected 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: $575

Effluent Limit Violation Table	
Respondent	City of Edinburg
ID Number(s)	TPDES Permit No. 10503002 Enforcement Case No. 30927
Docket No.	2006-1413-MLM-E
Enf. Coordinator	Brent Hurta

	EFFLUENT PARAMETER		
	Permit Limit		
	NH3 Daily Average Loading	NH3 Daily Average Concentration	NH3 Single Grab Concentration
Month/Year	148 lbs/day	3 mg/L	10 mg/L
September 2005	**c**	**4.86**	**13.6**
February 2006	**c**	**3.28**	**c**
March 2006	**175**	**7.63**	**c**
April 2006	**184**	**7.34**	**c**

Term	Abbreviation
milligrams per liter	**mg/L**
pounds per day	**lbs/day**
total ammonia nitrogen (as N)	**NH3**
compliant	**c**

Compliance History

Customer/Respondent/Owner-Operator:	CN600647978	City of Edinburg	Classification: AVERAGE	Rating: 8.01
Regulated Entity:	RN102080603	CITY OF EDINBURG	Classification: AVERAGE	Site Rating: 2.93
ID Number(s):	WASTEWATER	PERMIT	WQ0010503002	
	WASTEWATER	PERMIT	TPDES0024112	
	WASTEWATER	PERMIT	TX0024112	
	SLUDGE	REGISTRATION	21785	
	WASTEWATER LICENSING	LICENSE	WQ0010503002	
Location:	1202 N M RD, EDINBURG, HIDALGO COUNTY		Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	September 12, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 12, 2001 to September 12, 2006			

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

Name: Brent Hurta Phone: 512-239-6589

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: 06/09/2005 ADMINORDER 2004-0502-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: Effluent Limits PERMIT
Description: Noncompliance with the permitted Ammonia Nitrogen daily average permit limit of 3 milligrams per liter during September 2003 (4.25), October 2003 (5.36), and April 2004 (6.91).

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Rqmt Prov: Monit. & Reporting Req.: 7 (Page 5) PERMIT
Description: Failure to submit written notification to the TCEQ within five days of becoming aware of a noncompliant event which did result in a fish kill.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations: 1 (Page 2) PERMIT
Description: Unauthorized discharge of partially treated wastewater which resulted in a fish kill and noncompliance with the permitted Ammonia Nitrogen daily average permit limit of 3 milligrams per liter during March 2004 (10.2) and the Total Suspended Solids daily maximum limit of 40 milligrams per liter during March 2004 (69.7

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1 04/17/2003 (169219)
2 04/16/2002 (169218)
3 03/13/2003 (169214)
4 03/15/2002 (169213)
5 02/18/2003 (169211)
6 02/19/2002 (169210)
7 02/17/2006 (470217)
8 02/22/2005 (382912)

9	12/13/2002	(169207)
10	03/18/2005	(382913)
11	04/05/2006	(460654)
12	12/20/2004	(382914)
13	03/21/2006	(470218)
14	01/20/2005	(382915)
15	03/15/2002	(169206)
16	12/15/2005	(436116)
17	10/20/2005	(470219)
18	04/18/2005	(420719)
19	05/19/2005	(420720)
20	06/17/2005	(420721)
21	02/19/2004	(332851)
22	02/13/2004	(300057)
23	03/16/2004	(300059)
24	11/18/2005	(470220)
25	06/09/2006	(463963)
26	05/07/2004	(332852)
27	04/20/2004	(300060)
28	07/18/2005	(441717)
29	08/19/2005	(441718)
30	12/16/2005	(470221)
31	01/14/2003	(21562)
32	09/19/2005	(441719)
33	05/18/2004	(300062)
34	06/21/2004	(300064)
35	01/20/2006	(470222)
36	08/18/2006	(508757)
37	07/19/2004	(300066)
38	08/18/2003	(300068)
39	09/15/2003	(300070)
40	01/13/2003	(169252)
41	04/19/2006	(499334)
42	10/21/2003	(300072)
43	01/15/2002	(169251)
44	05/22/2006	(499335)
45	11/18/2003	(300073)
46	08/18/2004	(354000)
47	06/19/2006	(499336)
48	09/23/2004	(354001)
49	12/17/2003	(300074)
50	10/19/2004	(354002)
51	01/21/2004	(300075)
52	11/22/2004	(354003)
53	12/13/2002	(169248)
54	12/14/2001	(169247)
55	12/21/2002	(19806)
56	11/18/2002	(169244)
57	11/19/2001	(169243)
58	10/21/2002	(169240)
59	10/19/2001	(169239)
60	09/16/2002	(169237)
61	09/17/2001	(169236)
62	03/14/2004	(261622)
63	08/12/2002	(169234)
64	12/17/2004	(340331)
65	05/20/2004	(271191)
66	07/18/2003	(169231)
67	07/15/2002	(169230)
68	06/16/2003	(169227)
69	06/13/2002	(169226)
70	05/12/2003	(169223)
71	05/22/2002	(169222)

72 07/30/2004 (282630)

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

Date: 02/28/2006 (470218)

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: 08/02/2004 (282630)

Self Report? NO Classification: Minor

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

Rqmt Prov: PERMIT IA

Description: Failure to report annually to the TCEQ Harlingen Region Office (MC Region 15) and the Water Quality Management Information Systems Team (MC 224) of the Enforcement Division, by September 1 of each year items 1-9 listed on pages 25 of TPDES Permit No. WQ0010503-002.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)

Rqmt Prov: PERMIT IA

Description: Failure to ensure all wash down hoses using potable water are equipped with atmospheric vacuum breakers located above the overflow level of the wash down area.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.3[G]

Rqmt Prov: PERMIT IA

Description: Failure to at all times ensure that the lift stations are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(g)[G]

Rqmt Prov: PERMIT IA

Description: Failure to at all times ensure that the aeration basin is properly operated and maintained.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: PERMIT IA

Description: Failure to at all times ensure that the final clarifiers are properly operated and maintained.

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to maintain accurate records of the volume of effluent applied as irrigation water.

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to obtain representative soil samples from the root zones of the irrigation disposal site (athletic fields at the Edinburg Sports Complex).

Self Report? NO Classification: Minor

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

Rqmt Prov: PERMIT IA

Description: Failure to maintain a trace chlorine residual at the point of irrigation application.

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to install adequate signs stating that the irrigation water is from a non-potable supply. All piping transporting the effluent shall be clearly marked with these same signs.

Date: 04/30/2005 (420720)

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 (470219)

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: 02/19/2004 (332851)
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: 03/31/2004 (300060)
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: 05/07/2004 (332852)
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: 04/30/2004 (300062)
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: 05/31/2004 (300064)
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: 06/30/2004 (300066)
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 (499334)
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 (300072)
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 (499335)
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: 10/31/2003 (300073)
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 (499336)
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: 12/15/2004 (340331)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 312, SubChapter G 312.144(f)
Description: Failure to prominently mark the discharge port on all closed vehicles, tanks, or

containers.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 312, SubChapter G 312.145(a)(5)

Description: Failure to maintain a record of each individual collection and deposit in the form of a trip ticket that include the information listed in 30 Tex. Admin. Code 312. 145 (a) (5)

Date: 12/16/2005 (436116)

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to initiate engineering and finacial planning for expansion and/or upgrading of the wastewater treatment facility when the facility reaches 75% of their permitted flow for 3 consecutive months.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(g)(4)(B)[G]

Rqmt Prov: PERMIT IA

Description: Failure to maintain rotor in the north oxidation ditch.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)

30 TAC Chapter 305, SubChapter F 305.125(5)

TWC Chapter 26 26.121

TWC Chapter 26 26.121(a)(1)

TWC Chapter 26 26.121(a)(2)

TWC Chapter 26 26.121(a)(3)

TWC Chapter 26 26.121(a)[G]

TWC Chapter 26 26.121(b)

TWC Chapter 26 26.121(c)

TWC Chapter 26 26.121(d)

TWC Chapter 26 26.121(e)

TWC Chapter 26 26.121[G]

Rqmt Prov: PERMIT IA

Description: Failure to prevent an unauthorized discharge.

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to maintain daily average Ammonia Nitrogen level below 3.0 mg/l and a daily average maximum of 10 mg/l for September 2005.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.2(d)(5)(E)

Rqmt Prov: PERMIT IA

Description: Failure to have two working pumps at lift station #8.

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 EDINBURG	§	
RN102080603 AND RN101203560	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1413-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Edinburg (the "City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and 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 plant at 1202 North M Road in Edinburg, Hidalgo County, Texas (the "Wastewater Facility").

2. The City owns and operates a public water supply located at 500 West Mahl Street in Edinburg, Hidalgo County, Texas (the "PWS Facility") that has approximately 20,268 service connections and serves at least 25 people per day for at least 60 days per year.

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

4. 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.

5. The City received notice of the violations alleged in Section II ("Allegations") on or about August 21, 2006 and August 23, 2006.

6. 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.

7. An administrative penalty in the amount of Ten Thousand Two Hundred Thirteen Dollars ($10,213) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Forty-Three Dollars ($2,043) 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. Eight Thousand One Hundred Seventy Dollars ($8,170) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

8. 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.

9. 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.

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 Facilities, the City is alleged to have:

1. Failed to comply with the permitted effluent limits for the Wastewater Facility, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10503002, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on August 14, 2006 and shown in the following table:

	NH3 Daily Average Loading	NH3 Daily Average Concentration	NH3 Single Grab Concentration
Month/Year	148 lbs/day	3 mg/L	10 mg/L
September 2005	c	4.86	13.6
February 2006	c	3.28	c
March 2006	175	7.63	c
April 2006	184	7.34	c

Term	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
total ammonia nitrogen (as N)	NH3
compliant	c

2. Failed to meet the minimum treatment plant capacity requirement of 0.6 gallons per minute per connection for the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during the June 23, 2006 record review. Specifically, the water system has 20,268 connections and must provide a minimum treatment plant capacity of 17.512 million gallons per day ("MGD"). However, only 15.233 MGD is provided, which is approximately 15 percent deficient.

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 7 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 Edinburg, Docket No. 2006-1413-MLM-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 7 above, Eight Thousand One Hundred Seventy Dollars ($8,170) 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. It is further ordered that the City shall undertake the following technical requirements:

   a. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10503002. 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:

   Manager, Water Section
   Harlingen Regional Office
   Texas Commission on Environmental Quality
   1804 West Jefferson Avenue
   Harlingen, Texas 78550-5247

   b. Within 180 days after the effective date of this Agreed Order, begin providing the minimum treatment plant capacity of 0.6 gallons per minute per connection at the PWS Facility, as required by 30 TEX. ADMIN. CODE § 290.45(b)(2)(B).

   c. Within 195 days after the effective date of this Agreed Order, submit documentation of compliance with Ordering Provision No. 3.b.

4. 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 Site operations referenced in this Agreed Order.

5. 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.

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 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.

7. 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.

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 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

_____ _____
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.

_____ 28 NOVEMBER 2006
Signature Date

JUAN J. RODRIGUEZ INTERIM CITY MANAGER
Name (Printed or typed) Title
Authorized Representative of
City of Edinburg

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: 2006-1413-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Edinburg**
Payable Penalty Amount:	**Eight Thousand One Hundred Seventy Dollars ($8,170)**
SEP Amount:	**Eight Thousand One Hundred Seventy Dollars ($8,170)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**The Rensselaerville Institute-"Self-Help Rio Grande"**
Location of SEP:	**Hidalgo 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 will contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, provide low income homeowners with failing on-site wastewater treatment systems or no system at all, with technical and financial assistance to install, repair, or replace those water and wastewater sewage systems. To reduce costs, the Third-Party Recipient teams with low income homeowners to solve water and wastewater problems by working together to build water and wastewater infrastructures. SEP contributions are to be used for material and labor costs.

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 homes with substandard water and wastewater service. This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from homes with substandard water and wastewater service.

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:

The Rensselaerville Institute
Marion Frowein
63 Huyck Road
Rensselaerville, NY 12147

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.