EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1436-MWD-E **TCEQ ID:** RN102079282 **CASE NO.:** 30940

RESPONDENT NAME: City of West

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: City of West wastewater treatment system, located approximately 2,000 feet northeast of the intersection of Farm-to-Market Road 2311 and Farm-to-Market Road 2114, West, McLennan County

TYPE OF OPERATION: Wastewater treatment system

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: A complaint was received on December 13, 2005, alleging the Respondent discharged sludge into a creek. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 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. Lynley Doyen, Enforcement Division, Enforcement Section I, MC 169, (512) 239-1364; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
Respondent: The Honorable Russell D. Willsey, Mayor, City of West, P.O. Box 97, West, Texas 76691-0097
Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** December 13, 2005 **Dates of Investigations Relating to this Case:** December 13, 2005 and August 25, 2006 **Date of NOE Relating to this Case:** August 15, 2006 (NOE) **Background Facts:** This was a complaint investigation and a routine record review. Two violations were documented. To prevent future noncompliances, the Respondent hired a permanent full-time operator in August 2006 and expended an additional $7,500 on a belt-press machine in September 2006. **WATER** 1) Failed to prevent the unauthorized discharge and accumulation of sludge in the receiving stream. Specifically, the Facility's return activated sludge pumps had malfunctioned and as a result, the return sludge was carried over into the chlorine contact chamber, through Outfall 001, and into the receiving stream. The total volume of the discharge was estimated at 60,000 gallons. Samples taken 200 yards downstream from the point of discharge contained high concentrations of ammonia nitrogen ("NH_3-N") (114 milligrams per liter ("mg/L")), total phosphorus (6.95 mg/L), orthophosphate ("OP") (6.12 mg/L), and total Kjeldahl nitrogen ("TKN") (128 mg/L) compared to samples taken 40 yards upstream from the point of discharge, which had low concentrations of NH_3-N (0.42 mg/L), total phosphorus (0.21 mg/L), OP (0.20 mg/L), and TKN (0.93 mg/L) [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010544001, Permit Conditions No. 2(d)]. 2) Failed to comply with the permitted effluent limitation of 6.0 mg/L for minimum dissolved oxygen ("DO"). Specifically, the City self-reported exceedences on the monthly discharge monitoring reports as follows: April 2005 (5.1 mg/L), May 2005 (5.9 mg/L), August 2005 (5.3 mg/L), October 2005 (5.3 mg/L), and November 2005 (5.8 mg/L) [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010544001, Effluent Limitations and Monitoring Requirements, No. 6].	**Total Assessed:** $11,825 **Total Deferred:** $2,365 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $9,460 **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	**Corrective Actions Taken:** 1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. On December 14, 2005, installed new return activated sludge pumps at the Facility; b. On or around December 27, 2005, removed and properly disposed of the sludge and accumulated solids from the receiving stream; and c. On or around December 31, 2005, returned to compliance with the permitted effluent limitations by enhancing its maintenance schedule at the Facility. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Attachment A
Docket Number: 2006-1436-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of West**
Payable Penalty Amount:	**Nine Thousand Four Hundred Sixty Dollars ($9,460)**
SEP Amount:	**Nine Thousand Four Hundred Sixty Dollars ($9,460)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up**
Location of SEP:	**McLennan 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 clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
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	25-Aug-2006	Screening	24-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of West		
Reg. Ent. Ref. No.	RN102079282		
Facility/Site Region	9-Waco	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	30940	No. of Violations	2
Docket No.	2006-1436-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
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* $5,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 140% Enhancement *Subtotals 2, 3, & 7* $7,700

Notes: The penalty is enhanced because the Respondent self-reported 28 monthly effluent violations.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction *Subtotal 5* -$1,375

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

Notes: On or before December 31, 2005, the Respondent installed new pumps at the Facility, removed and properly disposed of the sludge and accumulated solids from the receiving stream, and returned to compliance with the permitted effluent limitations by enhancing its maintenance schedule at the Facility.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$45
Approx. Cost of Compliance	$14,000

SUM OF SUBTOTALS 1-7 Final Subtotal $11,825

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: N/A

Final Penalty Amount $11,825

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $11,825

DEFERRAL 20% Reduction Adjustment -$2,365

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 $9,460

Screening Date 24-Aug-2006 **Docket No.** 2006-1436-MWD-E **PCW**
Respondent City of West *Policy Revision 2 (September 2002)*
Case ID No. 30940 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102079282
Media [Statute] Water Quality
Enf. Coordinator Lynley Doyen

Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	28	140%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) **140%**

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) **0%**

>> **Compliance History *Person* Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> **Compliance History Summary**

Compliance History Notes The penalty is enhanced because the Respondent self-reported 28 monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **140%**

Screening Date 24-Aug-2006 **Docket No.** 2006-1436-MWD-E **PCW**

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

Case ID No. 30940 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102079282

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Primary Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(4) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010544001, Permit Conditions No. 2(d)

Secondary Rule Cite(s)

Violation Description Failure to prevent the unauthorized discharge and accumulation of sludge in the receiving stream, as documented during an investigation conducted on December 13, 2005. Specifically, the Facility's return activated sludge pumps had malfunctioned and as a result, the return sludge was carried over into the chlorine contact chamber, through Outfall 001 and into the receiving stream. The total volume of the discharge was estimated at 60,000 gallons. Samples taken 200 yards downstream from the point of discharge contained high concentrations of ammonia nitrogen ("NH_3-N") (114 milligrams per liter ("mg/L")), total phosphorus (6.95 mg/L), orthophosphate ("OP") (6.12 mg/L), and total Kjeldahl nitrogen ("TKN") (128 mg/L) compared to samples taken 40 yards upstream from the point of discharge, which had low concentrations of NH_3-N (0.42 mg/L), total phosphorus (0.21 mg/L), OP (0.20 mg/L), and TKN (0.93 mg/L).

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

OR

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: As a result of the unauthorized discharge, human health or the environment has been exposed to significant amounts of pollutants.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one / use a small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended based on the date of the investigation (December 13, 2005) through the date of compliance (December 27, 2005).

Economic Benefit (EB) for this violation

Estimated EB Amount $11

Statutory Limit Test

Violation Final Penalty Total $5,375

This violation Final Assessed Penalty (adjusted for limits) $5,375

Economic Benefit Worksheet

Respondent City of West
Case ID No. 30940
Reg. Ent. Reference No. RN102079282
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	$8,000	13-Dec-2005	14-Dec-2005	0.0	$0	$1	$2
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal	$5,000	13-Dec-2005	27-Dec-2005	0.0	$10	n/a	$10
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to remove and properly dispose of the accumulated solids and sludge from the receiving stream and to install a new pump at the facility. Date required is the investigation date. Final dates are the dates the Respondent completed the corrective actions.

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: N/A

Approx. Cost of Compliance: $13,000

TOTAL: $11

Screening Date 24-Aug-2006 **Docket No.** 2006-1436-MWD-E **PCW**

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

Case ID No. 30940 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102079282

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 2

Primary Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010544001, Effluent Limitations and Monitoring Requirements No. 6

Secondary Rule Cite(s)

Violation Description Failure to comply with the permitted effluent limitation of 6.0 mg/L for minimum dissolved oxygen ("DO"). Specifically, the Respondent self-reported exceedences on the monthly discharge monitoring reports as follows: April 2005 (5.1 mg/L), May 2005 (5.9 mg/L), August 2005 (5.3 mg/L), October 2005 (5.3 mg/L), and November 2005 (5.8 mg/L).

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

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.

Economic Benefit (EB) for this violation

Estimated EB Amount $34

Statutory Limit Test

Violation Final Penalty Total $6,450

This violation Final Assessed Penalty (adjusted for limits) $6,450

Economic Benefit Worksheet

Respondent City of West
Case ID No. 30940
Reg. Ent. Reference No. RN102079282
Media [Statute] Water Quality
Violation No. 2

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				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)	$1,000	30-Apr-2005	31-Dec-2005	0.7	$34	n/a	$34

Notes for DELAYED costs: Estimated cost for additional oversight and sampling, which may have alleviated or prevented the noncompliance. Date required was the first month of compliance. Final date is when the Facility returned to compliance with permitted effluent limitations.

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: N/A

Approx. Cost of Compliance: $1,000

TOTAL $34

Compliance History

Customer/Respondent/Owner-Operator:	CN600755243	City of West	Classification: AVERAGE	Rating: 2.51
Regulated Entity:	RN102079282	CITY OF WEST	Classification: AVERAGE	Site Rating: 1.52
ID Number(s):	WASTEWATER		PERMIT	WQ0010544001
	WASTEWATER		PERMIT	TPDES0020451
	WASTEWATER		PERMIT	TX0020451
	WASTEWATER LICENSING		LICENSE	WQ0010544001
Location:	LOCATED APPROX 2000 FT NE OF INTX OF FM 2311 & FM RD 2114 IN THE CITY OF WEST, MCLENNAN CO			Rating Date: 9/1/2005 Repeat Violator: NO
TCEQ Region:	REGION 09 – WACO			
Date Compliance History Prepared:	August 24, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 24, 2001 to August 24, 2006			

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

Name: Lynley Doyen Phone: 512-239-1364

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1 02/13/2002 (162692)
2 11/25/2002 (162693)
3 05/27/2002 (162695)
4 02/18/2003 (162696)
5 01/09/2006 (469079)
6 03/27/2002 (162699)
7 02/18/2003 (162700)
8 01/09/2006 (469080)
9 03/27/2002 (162663)
10 02/12/2004 (297238)
11 05/05/2003 (162664)
12 09/04/2003 (297239)
13 09/04/2003 (297240)
14 09/04/2003 (297241)
15 09/03/2003 (297242)
16 06/21/2002 (162666)
17 04/26/2005 (420089)
18 11/20/2003 (297243)
19 05/05/2003 (162667)
20 03/09/2005 (382236)
21 04/26/2005 (420090)
22 11/20/2003 (297244)
23 12/07/2004 (382237)
24 06/21/2005 (420091)
25 11/20/2003 (297245)
26 12/29/2003 (297246)
27 01/24/2005 (382238)
28 06/27/2005 (420092)
29 02/17/2004 (297247)
30 06/21/2002 (162671)
31 01/24/2005 (382239)
32 05/05/2003 (162672)
33 05/13/2002 (162675)

34 07/19/2002 (162678)
35 08/23/2002 (162681)
36 04/24/2006 (498629)
37 11/19/2001 (162683)
38 04/28/2004 (352911)
39 04/24/2006 (498630)
40 04/24/2006 (498631)
41 08/23/2002 (162684)
42 04/28/2004 (352912)
43 04/24/2006 (498632)
44 05/17/2004 (352913)
45 11/19/2001 (162686)
46 07/06/2004 (352914)
47 07/19/2004 (352915)
48 11/18/2002 (162687)
49 08/16/2004 (352916)
50 08/22/2005 (441206)
51 10/18/2004 (352917)
52 08/22/2005 (441207)
53 10/21/2005 (469076)
54 11/19/2001 (162689)
55 10/18/2004 (352918)
56 11/18/2002 (162690)
57 10/21/2005 (469077)

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

Date: 10/31/2001 (162692)

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: 10/31/2002 (162693)

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

Date: 12/31/2001 (162699)

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

Date: 12/31/2002 (162700)

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: 10/31/2005 (469079)

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 (469080)

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

Date: 02/28/2005 (420089)

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: 08/31/2003 (297243)

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: 01/31/2005 (382236)

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: 03/31/2005 (420090)

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 (297244)

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: 10/31/2004 (382237)

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

Date: 04/30/2005 (420091)

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

Date: 11/30/2004 (382238)

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

Date: 05/31/2005 (420092)

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

Date: 12/31/2004 (382239)

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: 04/30/2002 (162675)

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: 02/29/2004 (352911)

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: 03/31/2004 (352912)

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: 04/30/2004 (352913)

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: 08/31/2001 (162686)

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 (352915)

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

Date: 08/31/2002 (162687)

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: 07/31/2004 (352916)

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: 08/31/2004 (352917)

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: 09/30/2001 (162689)

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: 09/30/2002 (162690)

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 (469076)

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF WEST	§	
RN102079282	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1436-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 City of West (the "City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment system located approximately 2,000 feet northeast of the intersection of Farm-to-Market Road 2311 and Farm-to-Market Road 2114 in West, McLennan County, Texas (the "Facility").

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

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

4. The City received notice of the violations alleged in Section II ("Allegations") on or about August 20, 2006.

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

6. An administrative penalty in the amount of Eleven Thousand Eight Hundred Twenty-Five Dollars ($11,825) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nine Thousand Four Hundred Sixty Dollars ($9,460) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project and Two Thousand Three Hundred Sixty-Five Dollars ($2,365) 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.

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

8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:

   a. On December 14, 2005, installed new return activated sludge pumps at the Facility;

   b. On or around December 27, 2005, removed and properly disposed of the sludge and accumulated solids from the receiving stream; and

   c. On or around December 31, 2005, returned to compliance with the permitted effluent limitations by enhancing its maintenance schedule at the Facility.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to prevent the unauthorized discharge and accumulation of sludge in the receiving stream, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010544001, Permit Conditions No. 2(d), as documented during an investigation conducted on December 13, 2005. Specifically, the Facility's return activated sludge pumps had malfunctioned and as a result, the return sludge was carried over into the chlorine contact chamber, through Outfall 001, and into the receiving stream. The total volume of the discharge was estimated at 60,000 gallons. Samples taken 200 yards downstream from the point of discharge contained high concentrations of ammonia nitrogen ("NH_3-

N") (114 milligrams per liter ("mg/L")), total phosphorus (6.95 mg/L), orthophosphate ("OP") (6.12 mg/L), and total Kjeldahl nitrogen ("TKN") (128 mg/L) compared to samples taken 40 yards upstream from the point of discharge, which had low concentrations of NH_3-N (0.42 mg/L), total phosphorus (0.21 mg/L), OP (0.20 mg/L), and TKN (0.93 mg/L).

2. Failed to comply with the permitted effluent limitation of 6.0 mg/L for minimum dissolved oxygen ("DO"), in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010544001, Effluent Limitations and Monitoring Requirements, No. 6, as documented during a record review conducted on August 25, 2006. Specifically, the City self-reported exceedences on the monthly discharge monitoring reports as follows: April 2005 (5.1 mg/L), May 2005 (5.9 mg/L), August 2005 (5.3 mg/L), October 2005 (5.3 mg/L), and November 2005 (5.8 mg/L).

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of West, Docket No. 2006-1436-MWD-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Nine Thousand Four Hundred Sixty Dollars ($9,460) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 4/18/07
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.

Russell D Willsey 01/08/07
Signature Date

RUSSELL D WILLSEY MAYOR
Name (Printed or typed) Title
Authorized Representative of
City of West

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: 2006-1436-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of West**
Payable Penalty Amount:	**Nine Thousand Four Hundred Sixty Dollars ($9,460)**
SEP Amount:	**Nine Thousand Four Hundred Sixty Dollars ($9,460)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up**
Location of SEP:	**McLennan 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 clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
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.