EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-2090-MWD-E TCEQ ID: RN102844560 CASE NO.: 31859
RESPONDENT NAME: City of Tenaha

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: Tenaha Waste Water Treatment Plant, located adjacent to Hilliard Creek, approximately 2,400 feet south of United States Highway 84 and 3,300 feet east of United States Highway 96, Shelby County

TYPE OF OPERATION: Domestic wastewater treatment system

SMALL BUSINESS: ___Yes __X_No

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

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 9, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, 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 George N. Bowers, Mayor, City of Tenaha, P.O. Box 70, Tenaha, Texas 75974-0070
Respondent's Attorney: Not represented by counsel on this enforcement matter

RESPONDENT'S NAME: City of Tenaha
DOCKET NO.: 2006-2090-MWD-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___Complaint ___Routine ___Enforcement Follow-up __X_Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** October 30, 2006 **Date of NOE Relating to this Case:** November 27, 2006 (NOE) **Background Facts:** This was a routine record review. Two violations were documented. **WATER** 1) Failed to comply with permitted effluent limitations [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010818001, Effluent Limitations and Reporting Requirements, No. 1]. 2) Failed to submit the annual sludge report for the monitoring period ending July 31, 2005 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010818001, Sludge Provisions].	**Total assessed:** $5,010 **Total Deferred:** $1,002 _X_Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $4,008 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification:** __High _X_Average __Poor **Person Compliance History Classification:** __High _X_Average __Poor **Major Source:** __Yes _X_No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, submit the annual sludge report for the monitoring period ending July 31, 2005; b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010818001 and certification of compliance with Ordering Provision No. 2.a.; and c. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

Attachment A
Docket Number: 2006-2090-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Tenaha**
Payable Penalty Amount:	**Four Thousand Eight Dollars ($4,008)**
SEP Amount:	**Four Thousand Eight Dollars ($4,008)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance**
Location of SEP:	**Shelby County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

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
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 November 17, 2006*

DATES					
Assigned	4-Dec-2006				
PCW	5-Dec-2006	Screening	5-Dec-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Tenaha		
Reg. Ent. Ref. No.	RN102844560		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	31859	No. of Violations	2
Docket No.	2006-2090-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 72% Enhancement — *Subtotals 2, 3, & 7* $2,160

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

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

Notes: Respondent does not meet the culpability criteria.

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

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

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$176
Approx. Cost of Compliance	$2,100

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $5,160

OTHER FACTORS AS JUSTICE MAY REQUIRE — -3% — *Adjustment* -$150

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

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

Final Penalty Amount $5,010

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $5,010

DEFERRAL — 20% Reduction — *Adjustment* -$1,002

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $4,008

Screening Date 5-Dec-2006	**Docket No.** 2006-2090-MWD-E	**PCW**
Respondent City of Tenaha		*Policy Revision 2 (September 2002)*
Case ID No. 31859		*PCW Revision November 17, 2006*
Reg. Ent. Reference No. RN102844560		
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*)	10	50%
	Other written NOVs	1	2%
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 submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 72%

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

Total Adjustment Percentage (Subtotals 2, 3, & 7) 72%

Screening Date 5-Dec-2006 | **Docket No.** 2006-2090-MWD-E | **PCW**

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

Respondent City of Tenaha

Case ID No. 31859

Reg. Ent. Reference No. RN102844560

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010818001, Effluent Limitations and Reporting Requirements, No. 1

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached Violation Table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate CBOD5 and NH3-N to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. TSS and fecal coliform bacteria were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 2 | 180 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $166

Statutory Limit Test

Violation Final Penalty Total $3,340

This violation Final Assessed Penalty (adjusted for limits) $3,340

Economic Benefit Worksheet

Respondent City of Tenaha
Case ID No. 31859
Reg. Ent. Reference No. RN102844560
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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	$2,000	1-Jan-2006	31-Aug-2007	1.7	$166	n/a	$166
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 may have allevlated or prevented the noncompliance. Date required is the first month of noncompliance. 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	N/A						

Approx. Cost of Compliance: $2,000

TOTAL: $166

Screening Date	5-Dec-2006	**Docket No.** 2006-2090-MWD-E	**PCW**
Respondent	City of Tenaha		*Policy Revision 2 (September 2002)*
Case ID No.	31859		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN102844560		
Media [Statute]	Water Quality		
Enf. Coordinator	Lynley Doyen		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010818001, Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2005.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the permit requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

460 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $10

Statutory Limit Test

Violation Final Penalty Total $1,670

This violation Final Assessed Penalty (adjusted for limits) $1,670

Economic Benefit Worksheet

Respondent: City of Tenaha
Case ID No.: 31859
Reg. Ent. Reference No.: RN102844560
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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)	$100	1-Sep-2005	31-Jul-2007	1.9	$10	n/a	$10
Notes for DELAYED costs	Estimated cost to prepare and submit the annual sludge report. Date required is the date the report was due to TCEQ. 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	N/A						

Approx. Cost of Compliance: $100

TOTAL: $10

EFFLUENT VIOLATION TABLE						
City of Tenaha TPDES Permit No. WQ0010818001 (Outfall 001) Docket No. 2006-2090-MWD-E						
Permitted Effluent Limits	Monitoring Period End Date					
	1/31/06	2/28/06	3/31/06	4/30/06	5/31/06	6/30/06
TSS daily avg loading Limit = 24 lbs/day	69.4	40.61	78.7	c	64.7	50.4
TSS daily avg conc Limit = 15 mg/L	132	50.0	68.5	25.0	76.4	54.3
TSS single grab Limit = 60 mg/L	328	120	86.0	c	184	84.0
NH_3-N daily avg loading Limit = 5 lbs/day	c	5.92	c	c	c	c
NH_3-N daily avg conc Limit = 3 mg/L	c	6.9	c	c	c	c
NH_3-N daily avg conc Limit = 2 mg/L (start 4/1/06)	c	c	c	c	2.1	c
Fecal Coliform Bacteria daily avg conc Limit = 200 colonies per 100 mL	c	555	c	c	267	c
$CBOD_5$ daily avg loading Limit = 16 lbs/day	c	c	24.8	c	c	c
$CBOD_5$ daily avg conc Limit = 10 mg/L	16	12.6	16.9	10.2	12.7	c
$CBOD_5$ single grab Limit = 35 mg/L	c	c	40.2	c	c	c

avg = average
c = compliant
$CBOD_5$ = carbonaceous biochemical oxygen demand (5-day)
conc = concentration
lbs/day = pounds per day
mg/L = milligrams per liter
mL = milliliter
NH_3-N = ammonia nitrogen
TSS = total suspended solids

Compliance History

Customer/Respondent/Owner-Operator:	CN600338065	City of Tenaha	Classification: AVERAGE	Rating: 2.65
Regulated Entity:	RN102844560	TENAHA WWTP	Classification: AVERAGE	Site Rating: 2.30

ID Number(s):

WASTEWATER	PERMIT	WQ0010818001
WASTEWATER	PERMIT	TX0069086
WASTEWATER	EPA ID	TX0069086
WASTEWATER LICENSING	LICENSE	WQ0010818001

Location: LOCATED ADJ TO HILLIARD CREEK, APPRX 2,400 FT S OF U.S. HWY 84 AND 3,300 FT E OF U.S. HWY 96, SHELBY CO, TX

Rating Date: September 01 06
Repeat Violator: NO

TCEQ Region: REGION 10 – BEAUMONT

Date Compliance History Prepared: December 05, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 05, 2001 to December 05, 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.

Effective Date: 08/28/2004 ADMINORDER 2003-1327-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: Failure to comply with the permit limit for Total Suspended Solids daily average (mg/l) at Outfall 001A for the monitoring periods ending 08/31/2001 and 09/30/2001. These violations meet referral criteria.

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: Failed to comply with a pH permit maximum effluent limit of 9.0 standard units (SU) at Outfall 001A for the August 2001 monitoring period; the maximum pH for August 2001 was 9.3 SU.

Classification: Minor
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: TPDES No. 10818-001 PERMIT
Description: Failed to comply with the permit limit for Carbonaceous Biochemical Oxygen Demand - 5 day averate (BOD5) of 30 mg/l at Outfall 001A for the monthly monitoring period ending 5/21/2003; the BOD5 was 38 mg/l (27% exceedance).

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 05/17/2002 (195547)
2 06/21/2002 (195549)
3 12/19/2005 (474718)
4 08/19/2002 (195553)
5 09/19/2002 (195556)
6 02/18/2003 (358521)
7 10/24/2002 (195559)
8 05/19/2004 (358522)
9 07/19/2004 (358523)

10 08/16/2004 (358524)
11 09/21/2004 (358525)
12 10/18/2004 (358526)
13 12/19/2001 (195565)
14 12/16/2002 (195566)
15 02/20/2004 (311260)
16 03/15/2004 (311261)
17 01/30/2002 (195569)
18 04/19/2004 (311262)
19 01/21/2003 (195570)
20 05/19/2003 (311263)
21 06/16/2003 (311264)
22 11/17/2004 (385395)
23 11/19/2004 (385396)
24 06/17/2004 (311265)
25 12/20/2004 (385397)
26 07/18/2003 (311266)
27 08/18/2003 (311267)
28 01/18/2005 (385398)
29 10/22/2003 (252824)
30 09/17/2003 (311268)
31 11/29/2006 (517709)
32 10/24/2003 (311270)
33 05/22/2002 (283076)
34 11/18/2002 (311271)
35 11/09/2004 (340595)
36 11/17/2003 (311272)
37 01/22/2004 (311273)
38 04/14/2005 (376555)
39 07/20/2006 (524761)
40 08/04/2006 (524762)
41 09/25/2006 (524763)
42 04/24/2006 (502443)
43 05/19/2006 (502444)
44 06/24/2003 (251943)
45 06/16/2006 (502445)
46 02/21/2005 (423437)
47 03/21/2005 (423438)
48 05/04/2005 (423439)
49 05/20/2005 (423440)
50 06/16/2005 (423441)
51 02/17/2006 (474714)
52 03/27/2006 (474715)
53 03/01/2002 (195536)
54 03/27/2002 (195538)
55 03/19/2003 (195539)
56 10/09/2005 (474716)
57 07/18/2005 (444244)
58 11/16/2005 (474717)
59 08/19/2005 (444245)
60 04/29/2002 (195543)
61 09/19/2005 (444246)
62 04/22/2003 (195544)

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

Date: 05/31/2003 (311264)

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: 04/14/2005 (376555)

Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: A flow accuracy check conducted during the investigation indicated an error rate of 431%.

Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to commence construction of the new WWTP by 06/02/2004.

Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: the City is incorrectly calculating mass loading for BOD and TSS.

Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: One of the sand cell sludge drying beds was overgrown and needed cleaning.

Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: The freeboard in the second stabilization pond was noted to be less than one foot on the northeast corner of the pond.

Date: 11/30/2004 (385397)

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

Date: 06/30/2006 (524761)

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: 07/31/2006 (524762)

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: 08/31/2006 (524763)

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 (502443)

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 (502444)

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 (502445)

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

Date: 01/31/2006 (474714)

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: 02/28/2006 (474715)

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 TENAHA	§	
RN102844560	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2090-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Tenaha (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 domestic wastewater treatment system located adjacent to Hilliard Creek, approximately 2,400 feet south of United States Highway 84 and 3,300 feet east of United States Highway 96 in Shelby County, Texas (the "Facility").

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

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

4. The City received notice of the violations alleged in Section II ("Allegations") on or about December 2, 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 Five Thousand Ten Dollars ($5,010) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Thousand Eight Dollars ($4,008) of the administrative penalty shall be conditionally offset by the City's

completion of a Supplemental Environmental Project and One Thousand Two Dollars ($1,002) 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 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.

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

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

II. ALLEGATIONS

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

1. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010818001, Effluent Limitations and Reporting Requirements, No. 1, as documented during a record review conducted on October 30, 2006 and as shown in the following Violation Table:

EFFLUENT VIOLATION TABLE						
	Monitoring Period End Date					
Permitted Effluent Limits	1/31/06	2/28/06	3/31/06	4/30/06	5/31/06	6/30/06
TSS daily avg loading Limit = 24 lbs/day	69.4	40.61	78.7	c	64.7	50.4
TSS daily avg conc Limit = 15 mg/L	132	50.0	68.5	25.0	76.4	54.3
TSS single grab Limit = 60 mg/L	328	120	86.0	c	184	84.0
NH3-N daily avg loading Limit = 5 lbs/day	c	5.92	c	c	c	c
NH3-N daily avg conc Limit = 3 mg/L	c	6.9	c	c	c	c
NH3-N daily avg conc Limit = 2 mg/L (start 4/1/06)	c	c	c	c	2.1	c
Fecal Coliform Bacteria daily avg conc Limit = 200 colonies per 100 mL	c	555	c	c	267	c
CBOD5 daily avg loading Limit = 16 lbs/day	c	c	24.8	c	c	c
CBOD5 daily avg conc Limit = 10 mg/L	16	12.6	16.9	10.2	12.7	c
CBOD5 single grab Limit = 35 mg/L	c	c	40.2	c	c	c

avg = average
c = compliant
CBOD5 = carbonaceous biochemical oxygen demand (5-day)
conc = concentration
lbs/day = pounds per day
mg/L = milligrams per liter
mL = milliliter
NH3-N = ammonia nitrogen
TSS = total suspended solids

2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2005, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010818001, Sludge Provisions, as documented during a record review conducted on October 30, 2006.

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 Tenaha, Docket No. 2006-2090-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, Four Thousand Eight Dollars ($4,008) 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 30 days after the effective date of this Agreed Order, submit the annual sludge report for the monitoring period ending July 31, 2005 to:

      Compliance Monitoring Team
      Enforcement Division, MC 224
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-3087

   b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010818001 and certification of compliance with Ordering Provision No. 3.a., as described in Ordering Provision No. 3.c. below; and

   c. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

      "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

      The certification shall be submitted to:

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

with a copy to:

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

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

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.

Signature

2-7-07
Date

George N. Bowers
Name (Printed or typed)
Authorized Representative of
City of Tenaha

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2006-2090-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Tenaha**
Payable Penalty Amount:	**Four Thousand Eight Dollars ($4,008)**
SEP Amount:	**Four Thousand Eight Dollars ($4,008)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance**
Location of SEP:	**Shelby County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

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
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.