

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2006-0720-WQ-E **TCEQ ID:** RN104950134 **CASE NO.:** 29821
RESPONDENT NAME: City of Arlington

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Arlington Collection System, system line located in the 900 block of Wayland Drive, Arlington, Tarrant County; collection system manholes located at 812 Cooper Square Circle and at the intersection of Avenue J and Ballpark Way, Arlington, Tarrant County</p> <p>TYPE OF OPERATION: Wastewater collection system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 23, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable Robert Cluck, Mayor, City of Arlington, P.O. Box 90231, Arlington, Texas 76004 Ms. Fiona M. Allen, P.E., Deputy City Manager, City of Arlington, P.O. Box 90231, Arlington, Texas 76004 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigations Relating to this Case: March 2, 2006, May 22, 2006, and June 9, 2006</p> <p>Date of NOV's Relating to this Case: May 16, 2006 and September 11, 2006 (NOV)</p> <p>Background Facts: These were investigations for compliance with the water quality program. Three significant violations were observed.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of wastewater [TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$11,250</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$11,250</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Why Findings: This is a Findings Order because human health or the environment has been exposed to pollutants which exceeded protective levels.</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the City has implemented the following corrective measures at the Site:</p> <p>a) On March 2, 2006, dispatched a containment crew, obtained creek samples, installed pump stations, cleared the sewer main line, and made temporary repair to the sewer main line;</p> <p>b) On or about March 4, 2006, completed pumping and clean-up;</p> <p>c) On March 6, 2006, authorized contractor to permanently repair sewer main;</p> <p>d) On March 17, 2006, permanent sewer main line was returned to full service;</p> <p>e) On May 22, 2006, pumped the wastewater back into the collection system, removed and disposed of the dead fish, and flushed the unnamed tributary of Johnson Creek with fresh water;</p> <p>f) On June 8, 2006, pumped the wastewater back into the collection system and flushed the unnamed tributary of the West Fork of the Trinity River with fresh water;</p> <p>g) On June 9, 2006, dead fish in the unnamed tributary of the West Fork of the Trinity River were collected and disposed of.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (See Attachment A).</p>

Attachment A
Docket Number: 2006-0720-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Arlington
Penalty Amount: Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
SEP Offset Amount: Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
Type of SEP: Custom (2 projects with Pre-Approved concept)
Location of SEP: Tarrant County

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

1) Project Description

A.1 Description - Project One

The Respondent shall, through a contractor, extend first-time sewer service to one low-income household which is presently connected to a failing on-site septic system. The septic system is located at 1345 Mansfield Webb Road in Arlington. The Respondent agrees to connect the resident to the central system and properly decommission the existing septic tank at no cost to the homeowner.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations.

A.2 Description - Project Two

The Respondent shall hold a one-day city-wide household hazardous waste and pharmaceuticals collection event. The event will include collection of batteries, paints, cleaners, used oils, pesticides, and pharmaceuticals. The Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees;
- is advertised in flyers placed in utility bills or mail-outs

The Respondent shall collect the wastes and shall contract with a licensed hauler to transport and properly dispose of the collected wastes.

The Respondent shall perform this project in accordance with all federal, state and local laws and regulations. The Respondent certifies that there is no prior commitment to do these projects and that they are being performed solely in an effort to settle this enforcement action.

B.1 Environmental Benefit - Project One

This SEP will provide a discernible environmental benefit by preventing possible contamination of residential areas and watersheds resulting from discharge of sewage or septage from the failing system.

Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through sewage in drinking water sources; direct contact in areas of public access such as basements, lawns or streets, or in waters used for recreation; shellfish harvested from areas contaminated by raw sewage; and inhalation and skin absorption.

A key environmental concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

B.2 Environmental Benefit - Project Two

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Additionally, this event will alleviate the threat to wildlife posed by improperly disposed of pharmaceuticals, which can cause endocrine disruption and affect other biological processes.

C.1 Minimum Expenditure - Project One

SEP monies will be used to pay for the sewer tap, lateral extension from the main line to the property line, for any needed service connection from the property line to the house, and for properly abandoning the on-site septic system. The Respondent shall utilize the SEP offset only for the direct cost of implementing the project and no portion will be spent on administrative costs.

The Respondent shall utilize an outside contractor to implement and complete this SEP as described above and comply with all other provisions of this Attachment A. Should the costs associated with this SEP fall below the unexpended balance, the Respondent shall remit the remaining balance to the General Revenue Fund.

C.2 Minimum Expenditure - Project Two

SEP monies will be used for heavy equipment such as roll-off bins, overtime labor of employees, public announcement of the event, and transport and disposal fees. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

2. Performance Schedule

A.1 Schedule - Project One

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the

project by taking the necessary steps to secure a contractor for performance of the project. The Respondent shall complete the project within 180 days after the effective date of this Agreed Order.

A.2 Schedule - Project Two

Within one year after the effective date of this Agreed Order, the Respondent shall complete the project and submit all reports described below.

3. Reporting

A.1 Progress Reports – Project One

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date on Project One and setting forth a schedule for achieving completion within the time required above. If the project is completed within 90 days of the effective date of this Agreed Order, the Respondent shall submit a Final Report as described in 3.B., below in lieu of a progress report.

A.2 Progress Reports – Project Two

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date on Project Two and setting forth a schedule for achieving completion within the time required above. If the project is completed within 90 days of the effective date of this Agreed Order, the Respondent shall submit a Final Report as described in 3.B., below in lieu of a progress report.

B.1 Final Report – Project One

Within 45 days after completion of the project, the Respondent shall submit a report on Project One to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Map showing specific location of the project as completed;
6. Before and after photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

B.2 Final Report – Project Two

Within 90 days after completion of the project, the Respondent shall submit a report on Project Two to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;

4. Number of pounds or gallons of wastes collected;
5. Copies of manifests showing proper transport and disposal of wastes;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment B.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment 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.

6. 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.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the “Clean Texas” (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

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

DATES	Assigned <input type="text" value="22-May-2006"/>				
	PCW <input type="text" value="01-Feb-2007"/>	Screening <input type="text" value="14-Jun-2006"/>	EPA Due <input type="text"/>		

RESPONDENT/FACILITY INFORMATION	
Respondent <input type="text" value="City of Arlington"/>	
Reg. Ent. Ref. No. <input type="text" value="RN104950134"/>	
Facility/Site Region <input type="text" value="4-Dallas/Fort Worth"/>	Major/Minor Source <input type="text" value="Minor Source"/>

CASE INFORMATION	
Enf./Case ID No. <input type="text" value="29821"/>	No. of Violations <input type="text" value="1"/>
Docket No. <input type="text" value="2006-0720-WQ-E"/>	Order Type <input type="text" value="Findings"/>
Media Program(s) <input type="text" value="Water Quality"/>	Enf. Coordinator <input type="text" value="Brent Hurta"/>
Multi-Media <input type="text"/>	EC's Team <input type="text" value="Enforcement Team 1"/>
Admin. Penalty \$ Limit Minimum <input type="text" value="\$0"/>	Maximum <input type="text" value="\$10,000"/>

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	<input type="text" value="\$5,000"/>
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0% Enhancement		<i>Subtotals 2, 3, & 7</i>	<input type="text" value="\$0"/>
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Notes

Culpability	No <input type="text"/>	0% Enhancement		<i>Subtotal 4</i>	<input type="text" value="\$0"/>
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Notes

Good Faith Effort to Comply	25% Reduction			<i>Subtotal 5</i>	<input type="text" value="-\$1,250"/>
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	<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<small>(mark with a small x)</small>

Notes

Economic Benefit	0% Enhancement*			<i>Subtotal 6</i>	<input type="text" value="\$0"/>
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Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	<input type="text" value="\$3,750"/>
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OTHER FACTORS AS JUSTICE MAY REQUIRE		<i>Adjustment</i>	<input type="text" value="\$0"/>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i>	<input type="text" value="\$3,750"/>
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DEFERRAL	0% Reduction		<i>Adjustment</i>	<input type="text" value="\$0"/>
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY	<input type="text" value="\$3,750"/>
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Screening Date 14-Jun-2006	Docket No. 2006-0720-WQ-E	PCW
Respondent City of Arlington	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 29821	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN104950134		
Media [Statute] Water Quality		
Enf. Coordinator Brent Hurta		

Compliance History Worksheet

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

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
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) 0%

>> Repeat Violator (Subtotal 3)

<input type="text" value="No"/>	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History *Person Classification (Subtotal 7)*

<input type="text" value="Average Performer"/>	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	No enhancement due to Average Performer classification.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 14-Jun-2006	Docket No. 2006-0720-WQ-E	PCW		
Respondent City of Arlington		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 29821		<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No. RN104950134				
Media [Statute] Water Quality				
Enf. Coordinator Brent Hurta				
Violation Number <input type="text" value="1"/>				
Primary Rule Cite(s)	Tex. Water Code § 26.121(a)(1)			
Secondary Rule Cite(s)				
Violation Description	Failure to prevent an unauthorized discharge of wastewater. Specifically, on March 2, 2006 the City notified the Dallas/Fort Worth Regional Office of an unauthorized discharge of approximately 15,000 gallons of wastewater caused by the structural failure of a 12 foot segment of a 14-inch wastewater main. The unauthorized discharge occurred in the 900 block of Wayland Drive, Arlington, Tarrant County and resulted in the death of approximately 400 fish.			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
	Harm			
Release	Major	Moderate	Minor	
Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		Percent	<input type="text" value="50%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Percent	<input type="text"/>
Matrix Notes	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.			
	Adjustment	<input type="text" value="-\$5,000"/>		
	Base Penalty Subtotal	<input type="text" value="\$5,000"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>		
<i>mark only one use a small x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
		Violation Base Penalty	<input type="text" value="\$5,000"/>	
One single event is recommended.				
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	<input type="text" value="\$125"/>	Violation Final Penalty Total	
			<input type="text" value="\$3,750"/>	
	This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$3,750"/>	

Economic Benefit Worksheet

Respondent City of Arlington
 Case ID No. 29821
 Reg. Ent. Reference No. RN104950134
 Media [Statute] Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$43,567	02-Mar-2006	17-Mar-2006	0.0	\$6	\$119	\$125
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: This is the amount the City spent to repair and/or replace the portion of the sewer main line, pumped wastewater, and flushed the creek where the unauthorized discharge occurred. The date required is the date unauthorized discharge began. The final date is the date the sewer line was repaired.

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 \$43,567 TOTAL \$125



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	25-Sep-2006	Screening	16-Oct-2006	EPA Due	
	PCW	01-Feb-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Arlington
Reg. Ent. Ref. No.	RN104950134
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29821	No. of Violations	1
Docket No.	2006-0720-WQ-E	Order Type	Findings
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	\$10,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes No enhancement due to Average Performer Classification.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	25% Reduction	Subtotal 5	-\$2,500
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with a small x)

Notes The respondent returned to compliance on June 9, 2006.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$6	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$7,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,500
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral because a Findings Order is recommended.

PAYABLE PENALTY	\$7,500
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Screening Date 16-Oct-2006	Docket No. 2006-0720-WQ-E	PCW
Respondent City of Arlington	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 29821	<small>PCW Revision May 19, 2005</small>	
Reg. Ent. Reference No. RN104950134		
Media [Statute] Water Quality		
Enf. Coordinator Brent Hurta		

Compliance History Worksheet

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

Component	Number of...	<small>Enter Number Here</small>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	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 <i>(number of audits for which notices were)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<small>Please Enter Yes or No</small>			
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) 0%

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

<input style="width:90%;" type="text" value="No"/>	Adjustment Percentage (Subtotal 3) 0%
--	--

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

<input style="width:90%;" type="text" value="Average Performer"/>	Adjustment Percentage (Subtotal 7) 0%
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>> **Compliance History Summary**

Compliance History Notes	No enhancement due to Average Performer Classification.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	16-Oct-2006	Docket No.	2006-0720-WQ-E	PCW
Respondent	City of Arlington			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	29821			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN104950134			
Media [Statute]	Water Quality			
Enf. Coordinator	Brent Hurta			

Violation Number	1
Primary Rule Cite(s)	Tex. Water Code § 26.121(a)(1)
Secondary Rule Cite(s)	
Violation Description	Failure to prevent unauthorized discharges of wastewater. Specifically, on May 22, 2006 and June 9, 2006 the City notified the Dallas/Fort Worth Regional Office of unauthorized discharges of approximately 800 and 7,200 gallons of wastewater, respectively. The first unauthorized discharge occurred from a manhole located at 812 Cooper Square Circle into Johnson Creek, resulting in a fish kill of approximately 250 fish. The second unauthorized discharge occurred on June 8, 2006 from a manhole located at the intersection of Avenue J and Ballpark Way, resulting in a fish kill of approximately 528 fish.
Base Penalty	\$10,000

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input checked="" type="checkbox"/>			Percent 50%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent
Matrix Notes	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.				

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty \$10,000

Two single events are recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$6	Violation Final Penalty Total \$7,500
This violation Final Assessed Penalty (adjusted for limits) \$7,500	

Economic Benefit Worksheet

Respondent City of Arlington
 Case ID No. 29821
 Reg. Ent. Reference No. RN104950134
 Media [Statute] Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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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	\$2,500	22-May-2006	09-Jun-2006	0.0	\$6	n/a	\$6
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated amount the City spent to clean out the line and clean up and dispose of the dead fish in the portion of the collection system where the unauthorized discharges occurred. The date required is the date of the first unauthorized discharge. The final date is the date that the second unauthorized discharge was remediated.

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 \$2,500

TOTAL \$6

Compliance History

Customer/Respondent/Owner-Operator: CN600131791 City of Arlington Classification: AVERAGE Rating: 2.43
Regulated Entity: RN104950134 CITY OF ARLINGTON COLLECTION SYSTEM Classification: AVERAGE BY DEFAULT Site Rating: 3.01
ID Number(s):
Location: 101 W ABRAM ST, ARLINGTON, TARRANT COUNTY 900 BLOCK OF WAYLAND DR Rating Date: 9/1/2005 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: June 14, 2006
Agency Decision Requiring Compliance Enforcement
Compliance Period: June 14, 2001 to June 14, 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 | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 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 | 3/11/2006 |
| 2 | 3/27/2006 |
| 3 | 5/17/2006 |
| 4 | 6/9/2006 |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ARLINGTON
RN104950134

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-0720-WQ-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Arlington (the "City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

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

I. FINDINGS OF FACT

1. The City owns and operates a wastewater collection system line located in the 900 block of Wayland Drive, Arlington, Tarrant County, Texas and collection system manholes located at 812 Cooper Square Circle and at the intersection of Avenue J and Ballpark Way, Arlington, Tarrant County, Texas (the "Sites").
2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on March 2, 2006, TCEQ staff documented an unauthorized discharge of wastewater. Specifically, the City notified the Dallas/Fort Worth Regional Office of an unauthorized discharge of approximately 15,000 gallons of wastewater caused by the structural failure of a 12 foot segment of a 14-inch wastewater main and resulted in a fish kill of approximately 400 fish.

4. During an investigation on May 22, 2006, TCEQ staff documented an unauthorized discharge of wastewater. Specifically, the City notified the TCEQ Dallas/Fort Worth Regional Office of the unauthorized discharge of approximately 800 gallons of wastewater from a manhole located at 812 Cooper Square Circle into an unnamed tributary of Johnson Creek, resulting in a fish kill of approximately 250 fish.
5. During an investigation on June 9, 2006, TCEQ staff documented an unauthorized discharge of wastewater. Specifically, the City notified the TCEQ Dallas/Fort Worth Regional Office of the unauthorized discharge of approximately 7,600 gallons of wastewater from a manhole located at the intersection of Avenue J and Ballpark Way into the creek bed of an unnamed tributary of the West Fork of the Trinity River, resulting in a fish kill of approximately 528 fish.
6. The City received notices of the violations on May 22, 2006 and September 16, 2006.
7. The Executive Director recognizes that the City has implemented the following corrective measures at the Site:
 - a. On March 2, 2006, dispatched a containment crew, obtained creek samples, installed pump stations, cleared the sewer main line, and made temporary repair to the sewer main line;
 - b. On or about March 4, 2006, completed pumping and clean-up;
 - c. On March 6, 2006, authorized contractor to permanently repair sewer main;
 - d. On March 17, 2006, permanent sewer main line was returned to full service;
 - e. On May 22, 2006, pumped the wastewater back into the collection system, removed and disposed of the dead fish, and flushed the unnamed tributary of Johnson Creek with fresh water;
 - f. On June 8, 2006, pumped the wastewater back into the collection system and flushed the unnamed tributary of the West Fork of the Trinity River with fresh water; and
 - g. On June 9, 2006, dead fish in the unnamed tributary of the West Fork of the Trinity River were collected and disposed of.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and ch. 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, the City failed to prevent the unauthorized discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a)(1).
3. As evidenced by Finding of Fact No. 4, the City failed to prevent the unauthorized discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a)(1).

4. As evidenced by Finding of Fact No. 5, the City failed to prevent the unauthorized discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a)(1).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Eleven Thousand Two Hundred Fifty Dollars (\$11,250) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Eleven Thousand Two Hundred Fifty Dollars (\$11,250) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Eleven Thousand Two Hundred Fifty Dollars (\$11,250), as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Arlington, Docket No. 2006-0720-WQ-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, Eleven Thousand Two Hundred Fifty Dollars (\$11,250) 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 this Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have

the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Ordlin
For the Executive Director

7/25/07
Date

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

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

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Fiona M. Allen
Signature

02/08/07
Date

Fiona M. Allen, P.E.
Name (printed or typed)
Authorized Representative
City of Arlington

Deputy City Manager
Title

Attachment A
Docket Number: 2006-0720-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Arlington
Penalty Amount: Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
SEP Offset Amount: Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
Type of SEP: Custom (2 projects with Pre-Approved concept)
Location of SEP: Tarrant County

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

1) Project Description

A.1 Description - Project One

The Respondent shall, through a contractor, extend first-time sewer service to one low-income household which is presently connected to a failing on-site septic system. The septic system is located at 1345 Mansfield Webb Road in Arlington. The Respondent agrees to connect the resident to the central system and properly decommission the existing septic tank at no cost to the homeowner.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations.

A.2 Description - Project Two

The Respondent shall hold a one-day city-wide household hazardous waste and pharmaceuticals collection event. The event will include collection of batteries, paints, cleaners, used oils, pesticides, and pharmaceuticals. The Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees;
- is advertised in flyers placed in utility bills or mail-outs

The Respondent shall collect the wastes and shall contract with a licensed hauler to transport and properly dispose of the collected wastes.

The Respondent shall perform this project in accordance with all federal, state and local laws and regulations. The Respondent certifies that there is no prior commitment to do these projects and that they are being performed solely in an effort to settle this enforcement action.

B.1 Environmental Benefit - Project One

This SEP will provide a discernible environmental benefit by preventing possible contamination of residential areas and watersheds resulting from discharge of sewage or septage from the failing system.

Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through sewage in drinking water sources; direct contact in areas of public access such as basements, lawns or streets, or in waters used for recreation; shellfish harvested from areas contaminated by raw sewage; and inhalation and skin absorption.

A key environmental concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

B.2 Environmental Benefit - Project Two

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Additionally, this event will alleviate the threat to wildlife posed by improperly disposed of pharmaceuticals, which can cause endocrine disruption and affect other biological processes.

C.1 Minimum Expenditure - Project One

SEP monies will be used to pay for the sewer tap, lateral extension from the main line to the property line, for any needed service connection from the property line to the house, and for properly abandoning the on-site septic system. The Respondent shall utilize the SEP offset only for the direct cost of implementing the project and no portion will be spent on administrative costs.

The Respondent shall utilize an outside contractor to implement and complete this SEP as described above and comply with all other provisions of this Attachment A. Should the costs associated with this SEP fall below the unexpended balance, the Respondent shall remit the remaining balance to the General Revenue Fund.

C.2 Minimum Expenditure - Project Two

SEP monies will be used for heavy equipment such as roll-off bins, overtime labor of employees, public announcement of the event, and transport and disposal fees. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

2. Performance Schedule

A.1 Schedule - Project One

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the

project by taking the necessary steps to secure a contractor for performance of the project. The Respondent shall complete the project within 180 days after the effective date of this Agreed Order.

A.2 Schedule - Project Two

Within one year after the effective date of this Agreed Order, the Respondent shall complete the project and submit all reports described below.

3. Reporting

A.1 Progress Reports – Project One

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date on Project One and setting forth a schedule for achieving completion within the time required above. If the project is completed within 90 days of the effective date of this Agreed Order, the Respondent shall submit a Final Report as described in 3.B., below in lieu of a progress report.

A.2 Progress Reports – Project Two

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date on Project Two and setting forth a schedule for achieving completion within the time required above. If the project is completed within 90 days of the effective date of this Agreed Order, the Respondent shall submit a Final Report as described in 3.B., below in lieu of a progress report.

B.1 Final Report – Project One

Within 45 days after completion of the project, the Respondent shall submit a report on Project One to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Map showing specific location of the project as completed;
6. Before and after photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

B.2 Final Report – Project Two

Within 90 days after completion of the project, the Respondent shall submit a report on Project Two to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;

4. Number of pounds or gallons of wastes collected;
5. Copies of manifests showing proper transport and disposal of wastes;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment B.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment 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.

6. 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.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the “Clean Texas” (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

