EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1756-WQ-E **TCEQ ID:** RN103174306 **CASE NO.:** 31264

RESPONDENT NAME: City of Killeen

ORDER TYPE:		
_1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Killeen Collection System, 2003 Little Nolan Road, Killeen, Bell County

TYPE OF OPERATION: Wastewater collection system (lift station)

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: A complaint was received on February 6, 2006, indicating that sewage had discharged into a receiving stream, resulting in a fish kill. There is no record of additional pending enforcement actions regarding this facility location.

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 14, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Ms. Laurie Eaves, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4495; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
TCEQ Field Investigator: Mr. Royce Bolton, Waco Regional Office, MC R-09, (254) 751-0335
Respondent: The Honorable Maureen Jouett, Mayor, City of Killeen, P.O. Box 1329, Killeen, Texas 76450-1329
Ms. Connie J. Greer, City Manager, City of Killeen, P.O. Box 1329, Killeen, Texas 76450-1329
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** February 6, 2006 **Date of Investigation Relating to this Case:** February 6, 2006 **Date of NOE Relating to this Case:** August 26, 2006 (NOE) **Background Facts:** This was a complaint investigation. Three violations were documented. **WATER** 1) Failed to prevent the unauthorized discharge of raw wastewater into or adjacent to waters of the state which resulted in a fish kill [TEX. WATER CODE § 26.121(a)]. 2) Failed to notify the news media of a spill, regardless of volume, that the Facility owner knows or has reason to know, will adversely affect a public or private source of drinking water not later than 24 hours after becoming aware of the spill [TEX. WATER CODE § 26.039(e) and 30 TEX. ADMIN. CODE § 319.302(b) and (c)]. 3) Failed to provide complete noncompliance notification information to the TCEQ not later than 24 hours after the occurrence of the unauthorized discharge of wastewater exceeding 100,000 gallons [TEX. WATER CODE § 26.039(b)].	**Total Assessed:** $4,880 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $4,880 **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 **Findings Orders Justification:** Environmental receptors have been exposed to pollutants which exceed levels that are protective.	**Corrective Actions Taken:** 1) The Executive Director recognizes that the City implemented the following corrective measures at the Facility: a. Completed cleanup of the discharge on February 7, 2006 by pumping and hauling wastewater, scraping, bagging and disposing of paper and debris, raking the affected areas, and applying sodium hypochlorite; b. Notified the news media of the discharge on February 7, 2006; and c. Provided complete notification to the TCEQ of the discharge on February 9, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Attachment A
Docket Number: 2006-1756-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Killeen
Penalty Amount:	Four Thousand Eight Hundred Eighty Dollars ($4,880)
SEP Offset Amount:	Four Thousand Eight Hundred Eighty Dollars ($4,880)
Type of SEP:	Custom
Location of SEP:	Bell 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. Project

The Respondent shall hold a one-day city-wide waste collection and recycling event and a waste tire dump clean up event. The clean up event must include recycling batteries, electronics, and tires.

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:
  - a newspaper of large circulation in the geographic area,
  - flyers placed in utility bill mail-outs,
  - City of Killeen web page, and
  - City of Killeen cable channel.

The Respondent shall collect, transport, and dispose of the collected wastes. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of employees, public announcement of the event, and disposal fees.

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

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

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous E-waste from the waste stream destined for disposal or incineration and to divert the E-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize E-waste components, including CRTs.

This SEP will also 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. Removal of the illegal tire dumps will help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The cleanup will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

The Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

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 and setting forth a schedule for achieving completion within the time required above. There are no other interim performance milestones for this one-day collection and recycling event.

B. Final Report

Within 45 days after completion of the project, the Respondent shall submit a report 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 tires, batteries, pounds of electronic waste;
5. Photographs of the project; and
6. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

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. The Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, the Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

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

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state 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)

TCEQ

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

DATES					
Assigned	05-Sep-2006				
PCW	21-Sep-2006	Screening	13-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Killeen		
Reg. Ent. Ref. No.	RN103174306		
Facility/Site Region	9-Waco	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31264	No. of Violations	3
Docket No.	2006-1756-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Laurie Eaves
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* $6,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement *Subtotals 2, 3, & 7* $305

Notes: The Respondent was issued one written NOV for a violation considered to be the same or similar.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction *Subtotal 5* -$1,525

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

Notes: The Respondent returned to compliance on February 9, 2006 by providing revised notification to the TCEQ of the discharge amount, notifying the media of the discharge, and completing cleanup of the discharge and affected areas.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$6
Approx. Cost of Compliance	$10,100

SUM OF SUBTOTALS 1-7 Final Subtotal $4,880

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $4,880

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $4,880

DEFERRAL 0% Reduction Adjustment $0

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

Notes: No deferral is recommended because this is a Findings action.

PAYABLE PENALTY $4,880

Screening Date 13-Sep-2006 **Docket No.** 2006-1756-WQ-E **PCW**
Respondent City of Killeen *Policy Revision 2 (September 2002)*
Case ID No. 31264 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN103174306
Media [Statute] Water Quality
Enf. Coordinator Laurie Eaves

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **5%**

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

No

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

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

Average Performer

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

>> **Compliance History Summary**

Compliance History Notes The Respondent was issued one written NOV for a violation considered to be the same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **5%**

Screening Date 13-Sep-2006 **Docket No.** 2006-1756-WQ-E **PCW**

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

Case ID No. 31264 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN103174306

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 1

Primary Rule Cite(s) Tex. Water Code § 26.121(a)

Secondary Rule Cite(s)

Violation Description Failure to prevent the unauthorized discharge of raw wastewater into or adjacent to waters of the state which commenced on February 4, 2006, as documented during an investigation conducted on February 6, 2006. Specifically, due to mechanical failure at Lift Station No. 6, raw wastewater discharged from six separate manholes resulting in the cumulative discharge of greater than 100,000 gallons of raw wastewater. The discharges did reach South Nolan Creek and killed approximately 200 fish.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual	x		
Potential			

OR

Percent 50%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to pollutants which exceed protective levels as evidenced by the fish kill.

Adjustment -$5,000

Base Penalty Subtotal $5,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $5,000

One monthly event is recommended for the violation from the date the discharge commenced on February 4, 2006 through February 7, 2006 which is the date the discharge and affected areas were completely cleaned up.

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $4,000

This violation Final Assessed Penalty (adjusted for limits) $4,000

Economic Benefit Worksheet

Respondent City of Killeen
Case ID No. 31264
Reg. Ent. Reference No. RN103174306
Media [Statute] Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$10,000	04-Feb-2006	07-Feb-2006	0.0	$0	$5	$6
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost associated with repairing Lift Station No. 6 and cleaning up the affected areas. Date Required is the date the discharge commenced. Final Date is the date cleanup was completed.

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: $10,000

TOTAL $6

Screening Date 13-Sep-2006 **Docket No.** 2006-1756-WQ-E **PCW**

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

Case ID No. 31264 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN103174306

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 2

Primary Rule Cite(s) Tex. Water Code § 26.039(e) and 30 Tex. Admin. Code § 319.302(b) and (c)

Secondary Rule Cite(s)

Violation Description Failure to notify the news media of a spill which commenced on February 4, 2006, regardless of volume, that the facility owner knows or has reason to know, will adversely affect a public or private source of drinking water not later than 24 hours after becoming aware of the spill.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 1

mark only one use a small 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 $0

Statutory Limit Test

Violation Final Penalty Total $800

This violation Final Assessed Penalty (adjusted for limits) $800

Economic Benefit Worksheet

Respondent City of Killeen
Case ID No. 31264
Reg. Ent. Reference No. RN103174306
Media [Statute] Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$50	04-Feb-2006	07-Feb-2006	0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to provide noncompliance notification to the news media. Date Required is the date the discharge commenced. Final Date is the date the media was notified.						
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 $50

TOTAL $0

Screening Date 13-Sep-2006 **Docket No.** 2006-1756-WQ-E **PCW**

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

Case ID No. 31264 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN103174306

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 3

Primary Rule Cite(s) Tex. Water Code § 26.039(b)

Secondary Rule Cite(s)

Violation Description Failure to provide complete noncompliance notification information to the TCEQ not later than 24 hours after the occurrence of the unauthorized discharge of wastewater exceeding 100,000 gallons. Specifically, timely notification was provided via fax, however, the information on volume was not reflective of the actual amount discharged.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: 30% of the rule was not met.

Adjustment -$9,900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $80

This violation Final Assessed Penalty (adjusted for limits) $80

Economic Benefit Worksheet

Respondent City of Killeen
Case ID No. 31264
Reg. Ent. Reference No. RN103174306
Media [Statute] Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$50	06-Feb-2006	09-Feb-2006	0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to provide complete noncompliance notification. Date Required is the investigation date. Final Date is the date of complete notice.

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: $50

TOTAL $0

Compliance History

Customer/Respondent/Owner-Operator:	CN600674683	City of Killeen	Classification: Average	Rating: 2.44
Regulated Entity:	RN103174306	CITY OF KILLEEN COLLECTION SYSTEM	Classification: Average	Site Rating: 3.43
ID Number(s):	WATER QUALITY NON PERMITTED ID NUMBER R09WW001			
Location:	2003 LITTLE NOLAN RD, KILLEEN, BELL COUNTY		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 09 - WACO			

Date Compliance History Prepared: September 13, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 13, 2001 to September 13, 2006

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

Name: Laurie Eaves Phone: 512/239-4495

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

N/A

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

Date: 09/29/2005 (404672)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter O 305.535(c)(1)[G]
Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

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 THE	§	**TEXAS COMMISSION ON**
CITY OF KILLEEN	§	
RN103174306	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1756-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 Killeen ("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 (lift station) located at 2003 Little Nolan Road, Killeen, Bell County, Texas (the "Facility").

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

3. During an investigation on February 6, 2006, TCEQ staff documented the following:

   a. The unauthorized discharge of raw wastewater into or adjacent to waters of the state which commenced on February 4, 2006. Specifically, due to mechanical failure at Lift Station No. 6, raw wastewater discharged from six separate manholes resulting in the cumulative discharge of greater than 100,000 gallons of raw wastewater. The discharges did reach South Nolan Creek and killed approximately 200 fish;

   b. Failure to notify the news media of a spill which commenced on February 4, 2006, regardless of volume, that the facility owner knows or has reason to know, will adversely affect a public or private source of drinking water not later than 24 hours after becoming aware of the spill; and

   c. Failure to provide complete noncompliance notification information to the TCEQ not later than 24 hours after the occurrence of the unauthorized discharge of wastewater exceeding 100,000 gallons. Specifically, timely notification was provided via fax, however, the information on volume was not reflective of the actual amount discharged.

4. The City received notice of the violations on August 31, 2006.

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

   a. Completed cleanup of the discharge on February 7, 2006 by pumping and hauling wastewater, scraping, bagging and disposing of paper and debris, raking the affected areas, and applying sodium hypochlorite;

   b. Notified the news media of the discharge on February 7, 2006; and

   c. Provided complete notification to the TCEQ of the discharge on February 9, 2006.

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.a., the City failed to prevent the unauthorized discharge of raw wastewater into or adjacent to waters of the state which resulted in a fish kill, in violation of TEX. WATER CODE § 26.121(a).

3. As evidenced by Finding of Fact No. 3.b., the City failed to notify the news media of a spill, regardless of volume, that the Facility owner knows or has reason to know, will adversely affect a public or private source of drinking water not later than 24 hours after becoming aware of the spill, in violation of TEX. WATER CODE § 26.039(e) and 30 TEX. ADMIN. CODE § 319.302(b) and (c).

4. As evidenced by Finding of Fact No. 3.c., the City failed to provide complete noncompliance notification information to the TCEQ not later than 24 hours after the occurrence of the unauthorized discharge of wastewater exceeding 100,000 gallons, in violation of TEX. WATER CODE § 26.039(b).

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 Four Thousand Eight Hundred Eighty Dollars ($4,880) 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. Four Thousand Eight Hundred Eighty Dollars ($4,880) 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 Four Thousand Eight Hundred Eighty Dollars ($4,880), 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 Killeen, Docket No. 2006-1756-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, Four Thousand Eight Hundred Eighty Dollars ($4,880) 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 Facility operations referenced in this Agreed Order.

4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City has 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

_____ 6/27/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Killeen. I am authorized to agree to the attached Agreed Order on behalf of the City of Killeen, 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 Killeen 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

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

Connie J Green March 12, 2007
Signature Date

~~City~~ Connie J. Greer City Manager
Name (printed or typed) Title
Authorized Representative of the
City of Killeen

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

Attachment A
Docket Number: 2006-1756-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Killeen
Penalty Amount:	Four Thousand Eight Hundred Eighty Dollars ($4,880)
SEP Offset Amount:	Four Thousand Eight Hundred Eighty Dollars ($4,880)
Type of SEP:	Custom
Location of SEP:	Bell 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. Project

The Respondent shall hold a one-day city-wide waste collection and recycling event and a waste tire dump clean up event. The clean up event must include recycling batteries, electronics, and tires.

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:
  - a newspaper of large circulation in the geographic area,
  - flyers placed in utility bill mail-outs,
  - City of Killeen web page, and
  - City of Killeen cable channel.

The Respondent shall collect, transport, and dispose of the collected wastes. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of employees, public announcement of the event, and disposal fees.

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

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

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous E-waste from the waste stream destined for disposal or incineration and to divert the E-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize E-waste components, including CRTs.

This SEP will also 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. Removal of the illegal tire dumps will help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The cleanup will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

The Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

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 and setting forth a schedule for achieving completion within the time required above. There are no other interim performance milestones for this one-day collection and recycling event.

B. Final Report

Within 45 days after completion of the project, the Respondent shall submit a report 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 tires, batteries, pounds of electronic waste;
5. Photographs of the project; and
6. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

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. The Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, the Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

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

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state 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.