EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2189-MWD-E **TCEQ ID:** RN101608362 **CASE NO.:** 31969

RESPONDENT NAME: City of College Station

ORDER TYPE:		
X 1660 AGREED ORDER	__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: Carters Creek Plant, adjacent to the west side of Carters Creek, approximately 0.75 mile east of State Highway 6, and approximately 1,800 feet east and 8,000 feet north of the intersection of State Highway 6 East and Texas Avenue, Brazos County

TYPE OF OPERATION: Wastewater treatment

SMALL BUSINESS: ___ Yes __X__ No

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

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

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

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
Respondent: The Honorable Ron Silvia, Mayor, City of College Station, P.O. Box 9960, College Station, Texas 77842
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: ___ Complaint _X_ Routine ___ Enforcement Follow-up ___ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** October 24, 2006 **Date of NOE Relating to this Case:** November 20, 2006 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **WATER** Failed to prevent the unauthorized discharge of wastewater into or adjacent to waters in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010024006, Permit Conditions No. 2.g.].	**Total Assessed:** $4,700 **Total Deferred:** $940 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $3,760 **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:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the City has implemented the following corrective measures at the Facility: a. On October 24, 2006, removed visible wastewater debris mixed with the wastewater from Carters Creek after repairing the broken wastewater pipeline; and b. On November 6, 2006, sampled for fecal and total coliform to confirm that bacteria levels in Carters Creek had returned to mean levels documented by TCEQ stream assessments prior to the unauthorized discharge. By November 10, 2006, received the results of the analyses to confirm that coliform bacteria levels were lower than the mean levels documented before the unauthorized discharge. **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: 2006-2189-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of College Station**
Payable Penalty Amount:	**Three Thousand Seven Hundred Sixty Dollars ($3,760)**
SEP Amount:	**Three Thousand Seven Hundred Sixty Dollars ($3,760)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance**
Location of SEP:	**Brazos County**

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

1. Project Description

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision December 8, 2006*

TCEQ

DATES					
Assigned	27-Nov-2006				
PCW	12-Dec-2006	Screening	12-Dec-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of College Station		
Reg. Ent. Ref. No.	RN101608362		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	31969	No. of Violations	1
Docket No.	2006-2189-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee Hupp
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 19% Enhancement — *Subtotals 2, 3, & 7* **$950**

Notes: Respondent self-reported two effluent violations, received one notice of violation (NOV) for a same or similar violation and received two NOVs without same or similar violations.

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

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 25% Reduction — *Subtotal 5* **$1,250**

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

Notes: Respondent repaired broken pipeline and removed debris and wastewater resulting from the unauthorized discharge, documenting that the receiving waters had been cleaned up and returned to pre-discharge levels of coliform bacteria by November 6, 2006.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$54
Approx. Cost of Compliance	$28,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$4,700**

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 **$4,700**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$4,700**

DEFERRAL — 20% Reduction — *Adjustment* **-$940**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$3,760**

Screening Date	12-Dec-2006	**Docket No.** 2006-2189-MWD-E	**PCW**
Respondent	City of College Station		*Policy Revision 2 (September 2002)*
Case ID No.	31969		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN101608362		
Media [Statute]	Water Quality		
Enf. Coordinator	Merrilee Hupp		

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*)	3	15%
	Other written NOVs	2	4%
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 submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 19%

>> 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

Respondent self-reported two effluent violations, received one notice of violation (NOV) for a same or similar violation and received two NOVs without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 19%

Screening Date	12-Dec-2006	**Docket No.** 2006-2189-MWD-E	**PCW**
Respondent	City of College Station		*Policy Revision 2 (September 2002)*
Case ID No.	31969		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN101608362		
Media [Statute]	Water Quality		
Enf. Coordinator	Merrilee Hupp		

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010024006, Permit Conditions No. 2.g.

Violation Description Failed to prevent the unauthorized discharge of wastewater into or adjacent to waters in the state, as documented during an October 24, 2006 investigation. Specifically, a 21-inch diameter concrete wastewater collection line ruptured after a large section of the creek bank had washed away leaving the line unsupported.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A significant amount (over 100,000 gallons) of wastewater was discharged as a result of this violation.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events: 1

18 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $5,000

One monthly event is recommended from October 24, 2006 when discharge was documented during the TCEQ investigation to the date compliance was documented on November 10, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $54

Statutory Limit Test

Violation Final Penalty Total $4,700

This violation Final Assessed Penalty (adjusted for limits) $4,700

Economic Benefit Worksheet

Respondent City of College Station
Case ID No. 31969
Reg. Ent. Reference No. RN101608362
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal	$28,000	23-Oct-2006	6-Nov-2006	0.0	$54	n/a	$54
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Cost is approximate based on the labor, equipment, materials, waste transportation, sampling and analysis associated with repairs and cleanup of the unauthorized discharge. Date required is the date discharge was first observed and final date is the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $28,000

TOTAL $54

Compliance History

Customer/Respondent/Owner-Operator:	CN600732598	City of College Station	Classification: AVERAGE	Rating: 4.05
Regulated Entity:	RN101608362	CARTERS CREEK PLANT	Classification: AVERAGE	Site Rating: 0.43

ID Number(s):			
	WASTEWATER	PERMIT	WQ0010024006
	WASTEWATER	PERMIT	TPDES0047163
	WASTEWATER	PERMIT	TX0047163
	WASTEWATER	PERMIT	WQ0010024006
	WASTEWATER LICENSING	LICENSE	WQ0010024006

Location:	ADJ TO W SIDE OF CARTERS CREEK APPROX 0.75 MI E OF HWY 6 & APPROX 1800 FT E & 8000 FT N OF INTX SH-6 E & TX AVE, BRAZOS CO.	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	December 13, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 13, 2001 to December 13, 2006		

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

Name: Merrilee Hupp Phone: 512-239-4490

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	12/13/2002	(182205)
2	12/19/2001	(182204)
3	11/20/2002	(182201)
4	10/22/2002	(182197)
5	01/09/2002	(182196)
6	09/19/2002	(182194)
7	01/09/2002	(182193)
8	08/20/2002	(182191)
9	01/09/2002	(182190)
10	07/18/2003	(182188)
11	04/20/2005	(422060)
12	07/18/2002	(182187)
13	05/20/2005	(422061)
14	06/20/2005	(422062)
15	04/19/2005	(422063)
16	06/23/2003	(182184)
17	11/21/2006	(518293)
18	06/17/2002	(182183)
19	05/22/2003	(182180)
20	05/13/2002	(182179)
21	04/22/2003	(182176)
22	04/18/2002	(182175)

23	03/19/2003	(182171)
24	03/19/2002	(182170)
25	02/24/2003	(182168)
26	02/19/2002	(182167)
27	02/20/2004	(305489)
28	08/27/2004	(271354)
29	03/22/2004	(305491)
30	04/19/2004	(305492)
31	05/14/2004	(305494)
32	06/17/2004	(305496)
33	07/19/2004	(305498)
34	08/19/2003	(305500)
35	09/19/2003	(305502)
36	10/21/2003	(305504)
37	11/19/2003	(305505)
38	12/18/2003	(305506)
39	03/22/2002	(246995)
40	08/29/2003	(305507)
41	09/03/2004	(356164)
42	09/20/2004	(356165)
43	10/18/2004	(356166)
44	11/15/2004	(356167)
45	07/16/2004	(356168)
46	08/30/2006	(482017)
47	09/01/2005	(442944)
48	09/19/2005	(442945)
49	02/17/2005	(384127)
50	03/18/2005	(384128)
51	01/17/2003	(182209)
52	12/20/2004	(384129)
53	01/22/2002	(182208)

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

N/A

Date: 06/23/2004 (271354)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.6(c)(2)(E)

Rqmt Prov: PERMIT IA

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(e)

Rqmt Prov: PERMIT IA

Description: Failure by the permittee to comply with procedures specified in chapters 319.11 - 319.12.

Date: 08/30/2006 (482017)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.6(c)(2)(E)

Rqmt Prov: PERMIT IA

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

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

30 TAC Chapter 317 317.4(d)[G]

Rqmt Prov: PERMIT IA

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Citation: TWC Chapter 26 26.121(a)(1)

Rqmt Prov: PERMIT IA

Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.3(a)

Rqmt Prov: PERMIT IA

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

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

30 TAC Chapter 317 317.2[G]

Rqmt Prov: PERMIT IA

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 04/30/2004 (305494)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (422063)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 03/22/2002 (246995)

Self Report? NO Classification: Moderate

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

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF COLLEGE STATION	§	
RN101608362	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2189-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of College Station ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility adjacent to the west side of Carters Creek, approximately 0.75 mile east of State Highway 6, and approximately 1,800 feet east and 8,000 feet north of the intersection of State Highway 6 East and Texas Avenue in Brazos County, Texas (the "Facility").

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

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

4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 25, 2006.

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

6. An administrative penalty in the amount of Four Thousand Seven Hundred Dollars ($4,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Nine Hundred Forty Dollars ($940) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Three Thousand Seven Hundred Sixty Dollars ($3,760) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

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

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

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

   a. On October 24, 2006, removed visible wastewater debris mixed with the wastewater from Carters Creek after repairing the broken wastewater pipeline; and

   b. On November 6, 2006, sampled for fecal and total coliform to confirm that bacteria levels in Carters Creek had returned to mean levels documented by TCEQ stream assessments prior to the unauthorized discharge. By November 10, 2006, received the results of the analyses to confirm that coliform bacteria levels were lower than the mean levels documented before the unauthorized discharge.

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

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

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

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to prevent the unauthorized discharge of wastewater into or adjacent to waters in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010024006, Permit Conditions No. 2.g., as documented during an investigation conducted on October 24, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of College Station, Docket No. 2006-2189-MWD-E" to:

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

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Three Thousand Seven Hundred Sixty Dollars ($3,760) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement

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

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

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

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

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

6/27/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Signature

2/16/07
Date

Ron Silvia
Name (Printed or typed)
Authorized Representative of
City of College Station

Mayor
Title

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

Attachment A
Docket Number: 2006-2189-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of College Station**
Payable Penalty Amount:	**Three Thousand Seven Hundred Sixty Dollars ($3,760)**
SEP Amount:	**Three Thousand Seven Hundred Sixty Dollars ($3,760)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance**
Location of SEP:	**Brazos County**

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

1. Project Description

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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