EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2254-MWD-E **TCEQ ID:** RN101921005 **CASE NO.:** 32060

RESPONDENT NAME: City of Dumas

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: City of Dumas Wastewater Treatment Plant, approximately 1.0 mile east of U.S. Highway 287, south of the City of Dumas, on East 14th Street, in Moore 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 June 4, 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: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
Respondent: The Honorable Mike Milligan, Mayor, City of Dumas, P. O. Box 438, Dumas, Texas 79029
Mr. Vince DiPiazza, City Manager, City of Dumas, P. O. Box 438, Dumas, Texas 79029
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:** November 17, 2006 **Date of NOE Relating to this Case:** December 12, 2006 (NOE) **Background Facts:** This was a routine investigation. Two violations were documented. **WATER** 1) Failed to submit the annual sludge disposal report by September 1 of each year as required by the permit. Specifically, the annual sludge disposal report due September 1, 2006 was received on December 8, 2006 [30 TEX. ADMIN. CODE § 305.125(11)(B) and (C), Permit No. WQ0010161001 Sludge Provisions, Section III, G. Reporting Requirements]. 2) Failed to prevent an unauthorized discharge from the final treatment/holding pond at the wastewater treatment plant. Specifically, the facility started discharging treated wastewater on October 16, 2006 to the stormwater holding pond located on the Coon Ranch [30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121(a)].	**Total Assessed:** $2,704 **Total Deferred:** $540 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $2,164 **Total Paid 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 submitted the annual sludge disposal report for 2006 on December 8, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 3) The Order will also require the Respondent to: a. Immediately upon the effective date of this Agreed Order, comply with the provisions of Permit No. WQ0010161001, except that the City may release approximately 930 acre-feet of treated effluent per year to the holding pond located on the Coon Ranch until the permit change ordered in 3.c. is approved and subsequent required modifications are completed. The discharge(s) must not exceed a rate of 1200 gallons/minute at peak and 1000 gallons/minute on average. In no event may the discharge(s) exceed a rate or volume that would create a threat to human health and/or safety or cause damage to the environment. The City shall return to irrigation as soon as practicable: i. The discharges shall occur from a point immediately below the dam on the lower effluent holding pond; ii. The treated effluent shall be stored in the effluent holding ponds for a period of not less than twenty-one (21) days prior to discharge; and iii. The treated effluent shall meet the effluent parameters established in Permit No. WQ00110161001 and thus any released effluent shall be of the same quality authorized by the permit for irrigation purposes. b. Within 15 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.;

		c. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application to increase the 30-day Average Flow volume for Permit No. WQ0010161001, and to convert the WQ0010161001 Permit to a Texas Pollutant Discharge Elimination System Permit ("TPDES") to obtain authorization for the discharges; d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and e. Within 330 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate that the permitting action ordered in Provision 3.c. has been approved.

Attachment A
Docket Number: 2006-2254-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Dumas**
Payable Penalty Amount:	**Two Thousand One Hundred Sixty-Four Dollars ($2,164)**
SEP Amount:	**Two Thousand One Hundred Sixty-Four Dollars ($2,164)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Moore 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 coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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	18-Dec-2006				
PCW	22-Dec-2006	Screening	21-Dec-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Dumas		
Reg. Ent. Ref. No.	RN101921005		
Facility/Site Region	1-Amarillo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	32060	No. of Violations	2
Docket No.	2006-2254-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$2,600**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 4% Enhancement — *Subtotals 2, 3, & 7* **$104**

Notes: The penalty is enhanced because the respondent received two NOVs for violations that are not the same or similar to those cited in this action.

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

Notes: Respondent does not meet the culpability criteria.

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

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

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

0% Enhancement* — *Subtotal 6* **$0**

Total EB Amounts	$644
Approx. Cost of Compliance	$10,500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$2,704**

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 **$2,704**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$2,704**

DEFERRAL — 20% Reduction — *Adjustment* **-$540**

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 **$2,164**

Screening Date	21-Dec-2006	**Docket No.** 2006-2254-MWD-E	**PCW**
Respondent	City of Dumas		*Policy Revision 2 (September 2002)*
Case ID No.	32060		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN101921005		
Media [Statute]	Water Quality		
Enf. Coordinator	J. Craig Fleming		

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*)	0	0%
	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) 4%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced because the respondent received two NOVs for violations that are not the same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date	21-Dec-2006	**Docket No.** 2006-2254-MWD-E	**PCW**
Respondent	City of Dumas		*Policy Revision 2 (September 2002)*
Case ID No.	32060		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN101921005		
Media [Statute]	Water Quality		
Enf. Coordinator	J. Craig Fleming		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(11)(B) and (C), Permit No. WQ0010161001 Sludge Provisions, Section III, G. Reporting Requirements

Violation Description Failed to submit the annual sludge disposal report by September 1 of each year as required by the permit. Specifically, the annual sludge disposal report due September 1, 2006 was received on December 8, 2006, as documented during the investigation conducted on November 17, 2006.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: More than 70 percent of a permit requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 1

98 Number of violation days

mark only one with an 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 $7

Statutory Limit Test

Violation Final Penalty Total $104

This violation Final Assessed Penalty (adjusted for limits) $104

Economic Benefit Worksheet

Respondent City of Dumas
Case ID No. 32060
Reg. Ent. Reference No. RN101921005
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	$500	1-Sep-2006	8-Dec-2006	0.3	$7	n/a	$7
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	The approximate cost to submit the annual sludge report. The Date Required was the date required by the facility's permit. The Final Date was 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	NA						

Approx. Cost of Compliance $500

TOTAL $7

Screening Date	21-Dec-2006	**Docket No.** 2006-2254-MWD-E	**PCW**
Respondent	City of Dumas		*Policy Revision 2 (September 2002)*
Case ID No.	32060		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN101921005		
Media [Statute]	Water Quality		
Enf. Coordinator	J. Craig Fleming		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(4) and (5), Tex. Water Code § 26.121(a), and Permit No. WQ0010161001, Permit Conditions 2(g)

Violation Description Failed to prevent an unauthorized discharge from the final treatment/holding pond at the wastewater treatment plant. Specifically, the facility discharged treated wastewater to the stormwater holding pond located on the Coon Ranch, as documented during the investigation conducted on November 17, 2006.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1

34 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended from the November 17, 2006 investigation to the screening date of December 21, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $637

Statutory Limit Test

Violation Final Penalty Total $2,600

This violation Final Assessed Penalty (adjusted for limits) $2,600

Economic Benefit Worksheet

Respondent City of Dumas
Case ID No. 32060
Reg. Ent. Reference No. RN101921005
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$10,000	17-Nov-2006	25-Feb-2008	1.3	$637	n/a	$637
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	The approximate cost to submit a permit application. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	NA						

Approx. Cost of Compliance $10,000

TOTAL $637

Compliance History

Customer/Respondent/Owner-Operator:	CN600649370	City of Dumas	Classification: AVERAGE	Rating: 1.79
Regulated Entity:	RN101921005	CITY OF DUMAS WASTEWATER TREATMENT PLANT	Classification: AVERAGE	Site Rating: 1.71
ID Number(s):	WASTEWATER WASTEWATER LICENSING	PERMIT LICENSE	WQ0010161001 WQ0010161001	
Location:	1.0 MILE E OF US HIGHWAY 287 S OF THE CITY OF DUMAS ON E 14TH STREET IN MOORE COUNTY	Rating Date: September 01 06	Repeat Violator: NO	
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	December 19, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 19, 2001 to December 19, 2006			

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

Name: J. Craig Fleming Phone: (512) 239-5806

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 10/12/2005 (452192)

N/A

2 02/13/2003 (24102)
3 01/12/2005 (343929)
4 12/12/2006 (531195)
5 02/11/2006 (453067)
6 08/13/2003 (149642)
7 04/24/2005 (378189)

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

1. Date: 01/11/2005 (343929)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(i)[G]

Rqmt Prov: PERMIT IA

Description: Failure to maintain at least two feet of freeboard in the initial holding pond.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)

30 TAC Chapter 317 317.7(i)

Description: Failure to install an RPZ backflow prevention device or an air gap on the main potable water line to the WWTP.

2. Date: 02/13/2003 (24102)

Self Report? NO Classification: Moderate

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

Description: Failure to achieve permit effluent limitations for BOD5. Permit limit 35 mg/L daily average was exceeded seven months for the twelve months records reviewed.

Self Report? NO Classification: Moderate

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

Description: Failure to implement proper methods for BOD5 analysis and reporting.

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 DUMAS	§	
RN101921005	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2254-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 Dumas ("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 plant located approximately 1.0 mile east of U.S. Highway 287, south of the City of Dumas, on East 14th Street, in Moore County, Texas (the "Facility").

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

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

4. The City received notice of the violations alleged in Section II ("Allegations") on or about December 17, 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 Two Thousand Seven Hundred Four Dollars ($2,704) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Five Hundred Forty Dollars ($540) 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. Two Thousand One Hundred Sixty-Four Dollars ($2,164) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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 submitted the annual sludge disposal report for 2006 on December 8, 2006.

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

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

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

II. ALLEGATIONS

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

1. Failed to submit the annual sludge disposal report by September 1 of each year as required by the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(11)(B) and (C), Permit No. WQ0010161001 Sludge Provisions, Section III, G. Reporting Requirements, as documented during the investigation conducted on November 17, 2006. Specifically, the annual sludge disposal report was not submitted by September 1, 2006.

2. Failed to prevent an unauthorized discharge from the final treatment/holding pond at the wastewater treatment plant, in violation of 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121(a), as documented during the investigation conducted on November 17, 2006. Specifically, the Facility started discharging treated wastewater on October 16, 2006 to the stormwater holding pond located on the Coon Ranch.

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: The City of Dumas, Docket No. 2006-2254-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 SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand One Hundred Sixty-Four Dollars ($2,164) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the City shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, comply with the provisions of Permit No. WQ0010161001, except that the City may release approximately 930 acre-feet of treated effluent per year to the holding pond located on the Coon Ranch until the permit change ordered in 3.c. is approved and subsequent required modifications are completed. The discharge(s) must not exceed a rate of 1200 gallons/minute at peak and 1000 gallons/minute on average. In no event may the discharge(s) exceed a rate or volume that would create a threat to human health and/or safety or cause damage to the environment. The City shall return to irrigation as soon as practicable:

      i. The discharges shall occur from a point immediately below the dam on the lower effluent holding pond;

      ii. The treated effluent shall be stored in the effluent holding ponds for a period of not less than twenty-one (21) days prior to discharge; and

      iii. The treated effluent shall meet the effluent parameters established in Permit No. WQ00110161001 and thus any released effluent shall be of the same quality authorized by the permit for irrigation purposes.

b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.;

c. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application to increase the 30-day Average Flow volume for Permit No. WQ0010161001, and to convert the WQ0010161001 Permit to a Texas Pollutant Discharge Elimination System Permit ("TPDES") to obtain authorization for the discharges, in accordance with 30 TEX. ADMIN. CODE ch. 305 to:

Water Quality Applications Team, Permits
Administrative Review Section
Registration, Review and Reporting Division, MC-161
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and

e. Within 330 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate that the permitting action ordered in Provision 3.c. has been approved. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Quality Section, Manager
Amarillo Regional Office

Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

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

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

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

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

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 7/11/07
For the Executive Director Date

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

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

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

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

_____ 3/21/07
Signature Date

Vince DiPiazza City Manager
Name (Printed or typed) Title
Authorized Representative of
City of Dumas

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: 2006-2254-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Dumas
Payable Penalty Amount:	Two Thousand One Hundred Sixty-Four Dollars ($2,164)
SEP Amount:	Two Thousand One Hundred Sixty-Four Dollars ($2,164)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP:	Moore 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 coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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.