# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.:** 2007-0115-MWD-E **TCEQ ID:** RN100835487 **CASE NO.:** 32428

**RESPONDENT NAME:** City of Bartlett

| 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:** Approximately 0.5 mile northeast of the intersection of State Highway 95 and Farm-to-Market Road 487, Bartlett, Bell County

**TYPE OF OPERATION:** Wastewater treatment facility

**SMALL BUSINESS:** _X_ **Yes** ___ **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 July 1, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
**TCEQ Enforcement Coordinator:** Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
**Respondent:** The Honorable Arthur J. White, Mayor, City of Bartlett, Post Office Box H, Bartlett, Texas 76511
**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:**<br>___ Complaint<br>___ Routine<br>___ Enforcement Follow-up<br>_X_ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** December 5, 2006<br><br>**Date of NOE Relating to this Case:** December 20, 2006 (NOE)<br><br>**Background Facts:** This was a routine record review. One violation was documented.<br><br>**WATER**<br><br>Failed to comply with the permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), TPDES Permit No. 10880001, Final Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A]. | **Total Assessed:** $10,280<br><br>**Total Deferred:** $2,056<br>_X_Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $8,224<br><br>**Total Paid to General Revenue:** $0<br><br>**Site Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Person Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Major Source:** ___ Yes _X_ No<br><br>**Applicable Penalty Policy:** September 2002 | **Ordering Provisions:**<br><br>The Order will require the Respondent to:<br><br>a. Implement and complete a Supplemental Environmental Project (SEP) (See Attached A); and<br><br>b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10880001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance. |

**Attachment A**
**Docket Number: 2007-0115-MWD-E**

## SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---|---|
| **Respondent:** | City of Bartlett |
| **Penalty Amount:** | Eight Thousand Two Hundred Twenty-Four Dollars ($8,224) |
| **SEP Offset Amount:** | Eight Thousand Two Hundred Twenty-Four Dollars ($8,224) |
| **Type of SEP:** | Custom with Pre-Approved Concept |
| **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 six-week event for the collection and recycling of waste tires, batteries, electronics, and other recyclable or reusable materials. In addition to accepting the items at a designated drop-off location, the Respondent shall pick up items for citizens who have no other way of bringing the materials to the drop-off location. The event will be advertised in two local papers, and on utility bill mailings prior to the event. The Respondent shall ensure that the event:

- offers to the public a convenient drop-off location;
- offers to the public special pick-up for recyclable materials;
- is organized and conducted by City employees and volunteers;
- includes recycling of electronics; and
- is advertised in:
  - a newspaper of large circulation in the geographic area, and
  - utility bill mail-outs.

The Respondent shall collect, transport, dispose of or recycle the collected materials. SEP monies will be used for heavy equipment such as roll-off bins, trailers, overtime labor of employees, public announcement of the event, and disposal and recycling costs.

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 wastes 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. Collection of waste tires will help prevent illegal tire dumps and help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The event 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 progress report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion with the time required above. There are no other interim performance milestones for this collection and recycling event.

B. Final Report

Within 60 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. Manifests and/or receipts to show proper disposal or recycling of collected materials;
4. A statement of quantifiable environmental benefits;
5. Number of tires, appliances, and pounds of electronic waste;
6. Photographs of the project; and
7. 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)

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

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 3-Jan-2007 | | | | |
| PCW | 29-Jan-2007 | Screening | 26-Jan-2007 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | City of Bartlett | | |
| Reg. Ent. Ref. No. | RN100835487 | | |
| Facility/Site Region | 9-Waco | Major/Minor Source | Minor |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 32428 | No. of Violations | 1 |
| Docket No. | 2007-0115-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Cari-Michel La Caille |
| 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* **$4,000**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** — **192%** Enhancement — *Subtotals 2, 3, & 7* **$7,680**

Notes: A 192% enhancement is recommended for having 37 NOVs for self-reported effluent data, one NOV for a same or similar violation, and one NOV without a same or similar violation within the last five years.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

**0%** Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $242 |
| Approx. Cost of Compliance | $2,000 |

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* **$11,680**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** — **-12%** — *Adjustment* **-$1,400**

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

Notes: Recommended reduction in the penalty so that monthly self reported effluent violations do not overly-impact the penalty amount and to prevent double-enhancement of the penalty amount for same violations that were not self-reported.

*Final Penalty Amount* **$10,280**

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* **$10,280**

**DEFERRAL** — **20%** Reduction — *Adjustment* **-$2,056**

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** **$8,224**

**Screening Date** 26-Jan-2007 **Docket No.** 2007-0115-MWD-E **PCW**

**Respondent** City of Bartlett

**Case ID No.** 32428

**Reg. Ent. Reference No.** RN100835487

**Media [Statute]** Water Quality

**Enf. Coordinator** Carl-Michel La Caille

*Policy Revision 2 (September 2002)*

*PCW Revision December 8, 2006*

## 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*) | 38 | 190% |
| | Other written NOVs | 1 | 2% |
| 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)*** 192%

>> **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**

A 192% enhancement is recommended for having 37 NOVs for self-reported effluent data, one NOV for a same or similar violation, and one NOV without a same or similar violation within the last five years.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 192%

**Screening Date** 26-Jan-2007 **Docket No.** 2007-0115-MWD-E **PCW**

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

**Case ID No.** 32428 *PCW Revision December 8, 2006*

**Reg. Ent. Reference No.** RN100835487

**Media [Statute]** Water Quality

**Enf. Coordinator** Cari-Michel La Caille

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a),TPDES Permit No. 10880001, Final Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A

**Violation Description** Failed to comply with the permitted effluent limits as documented during a record review conducted on December 5, 2006. See attached effluent violation table.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | x |
| Potential | | | |

OR

**Percent** 10%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

Matrix Notes: A simplified model was used to evaluate biochemical oxygen demand ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, Total Suspended Solids ("TSS") and ammonia nitrogen ("NH3-N") values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** $9,000

$1,000

## Violation Events

Number of Violation Events 4 335 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $4,000

Four quarterly events are recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $217

## Statutory Limit Test

**Violation Final Penalty Total** $10,280

**This violation Final Assessed Penalty (adjusted for limits)** $10,280

# Economic Benefit Worksheet

**Respondent** City of Bartlett
**Case ID No.** 32428
**Reg. Ent. Reference No.** RN100835487
**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 | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | $2,000 | 31-Jul-2005 | 30-Sep-2007 | 2.2 | $217 | n/a | $217 |

Notes for DELAYED costs: The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the expected compliance date.

**Avoided Costs** — ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance: $2,000

TOTAL: $217

# Effluent Violation Table
City of Barlett
TPDES Permit No. WQ0010880001
Docket No. 2007-0115-MWD-E

| **Permitted Effluent Limits Outfall 001A** | Monitoring Period End Date | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 7/31/05 | 8/31/05 | 10/31/05 | 11/30/05 | 12/31/05 | 1/31/06 | 2/28/06 | 3/31/06 | 4/30/06 | 5/31/06 | 6/30/06 |
| **Flow** Daily Avg. 0.325 MGD | c | 0.345 | c | c | c | c | c | c | c | c | c |
| **TSS** Daily Avg. 244 lbs/dy (loading) | c | 272.28 | c | c | c | c | c | c | c | c | c |
| **TSS** Daily Avg. 90 mg/L (conc.) | 98.25 | 94.63 | c | 125.76 | 147.70 | c | 102.00 | 93.00 | 97.25 | 90.88 | 99.46 |
| **BOD** Daily Avg. 81 lbs/dy (loading) | c | c | c | c | 96.61 | c | c | 104.69 | c | c | c |
| **BOD** Daily Avg. 30 mg/L (conc.) | c | c | 33.1 | 41.54 | 48.35 | 33.95 | 40.55 | 45.02 | 32.83 | 35.18 | c |

| | | |
|---|---|---|
| TSS = Total Suspended Solids | BOD=Biochemical Oxygen Demand | Flow MGD=Million gallons per day |
| mg/L = Milligrams per liter | lbs/dy = Pounds per day | conc. = concentration |

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600514202 | City of Bartlett | Classification: AVERAGE | Rating: 2.90 |
| Regulated Entity: | RN100835487 | WASTEWATER PLANT | Classification: AVERAGE | Site Rating: 2.70 |

| ID Number(s): | | | |
|---|---|---|---|
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | BF0221T |
| | WASTEWATER | PERMIT | WQ0010880001 |
| | WASTEWATER | PERMIT | WQ0010880001 |
| | WASTEWATER | PERMIT | TPDES0027006 |
| | WASTEWATER | PERMIT | TX0027006 |
| | WASTEWATER LICENSING | LICENSE | WQ0010880001 |

| | |
|---|---|
| Location: | Located approx. 0.5 mile northeast of the intersection of SH 95 and FM 487 Rating Date: 9/1/2006 Repeat Violator: NO |
| TCEQ Region: | REGION 09 - WACO |
| Date Compliance History Prepared: | January 03, 2007 |
| Agency Decision Requiring Compliance History: | Enforcement |
| Compliance Period: | January 03, 2002 to January 03, 2007 |

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

Name: Cari-Michel La Caille Phone: 512-239-1387

## 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

| | | |
|---|---|---|
| 1 | 08/01/2005 | (442264) |
| 2 | 02/19/2004 | (262861) |
| 3 | 06/27/2005 | (449397) |
| 4 | 02/11/2002 | (174889) |
| 5 | 04/20/2006 | (499968) |
| 6 | 02/10/2003 | (174890) |
| 7 | 05/19/2006 | (499969) |
| 8 | 06/27/2006 | (499970) |
| 9 | 03/11/2002 | (174892) |
| 10 | 11/18/2004 | (383427) |
| 11 | 12/13/2004 | (383428) |
| 12 | 04/08/2002 | (174894) |
| 13 | 01/10/2005 | (383429) |
| 14 | 05/20/2002 | (286419) |
| 15 | 05/16/2002 | (174896) |
| 16 | 02/22/2006 | (471204) |
| 17 | 06/20/2002 | (174898) |
| 18 | 08/27/2002 | (3324) |
| 19 | 07/22/2002 | (174901) |
| 20 | 03/17/2006 | (471205) |
| 21 | 10/21/2005 | (471206) |
| 22 | 08/21/2002 | (174903) |

23 09/19/2002 (174905)
24 10/21/2002 (174906)
25 11/21/2005 (471207)
26 11/22/2002 (174909)
27 08/01/2005 (442241)
28 12/20/2006 (533256)
29 02/07/2005 (442242)
30 07/18/2006 (522060)
31 09/10/2002 (11261)
32 08/01/2005 (442243)
33 03/10/2005 (442244)
34 08/31/2006 (522061)
35 08/01/2004 (442245)
36 12/12/2002 (174912)
37 08/01/2005 (442246)
38 09/21/2006 (522062)
39 08/01/2005 (442247)
40 04/13/2005 (442248)
41 08/01/2005 (442249)
42 07/26/2005 (442250)
43 08/01/2005 (442251)
44 01/22/2003 (174914)
45 08/01/2005 (442252)
46 06/17/2005 (442253)
47 08/01/2005 (442254)
48 08/01/2005 (442255)
49 08/01/2005 (442256)
50 08/01/2005 (442257)
51 08/01/2005 (442258)
52 08/01/2005 (442259)
53 08/24/2004 (354925)
54 12/27/2005 (471208)
55 09/13/2005 (442260)
56 09/09/2004 (354926)
57 08/01/2005 (442261)
58 01/23/2006 (471209)
59 08/01/2005 (442262)
60 10/19/2004 (354927)
61 08/01/2005 (442263)

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

Date: 06/27/2005 (449397)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
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30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
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Description: NON-RPT VIOS FOR MONIT PER OR PIPE

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Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/31/2005 (471209)

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

Date: 01/31/2002 (174889)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2006 (499968)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2003 (174890)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2006 (499969)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2006 (499970)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 02/28/2002 (174892)
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: 10/31/2004 (383427)
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: 11/30/2004 (383428)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2002 (174894)
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: 12/31/2004 (383429)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2002 (174896)
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 (442256)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2002 (174898)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2005 (442258)
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: 06/30/2002 (174901)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2006 (471204)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 02/28/2006 (471205)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2004 (442241)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2002 (174903)
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: 12/31/2003 (442264)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 02/28/2003 (442243)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 08/31/2002 (174905)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 02/29/2004 (442245)
Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

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

Date: 08/31/2005 (442260)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

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

Date: 06/30/2006 (522060)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

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

Date: 07/31/2006 (522061)

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: 10/31/2003 (442262)

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: 11/30/2002 (174912)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

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

Date: 08/26/2002 (3324)

Self Report? NO Classification: Moderate

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

Description: The permittee has exceeded BOD (5 day) on the DMR's for the months of June 2001, December 2001, February 2002, and March 2002. For the month of March 2002, the permittee exceeded the BOD by 40%.

Date: 03/31/2004 (442247)

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: 12/31/2002 (174914)

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: 11/30/2003 (442263)

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: 10/31/2005 (471207)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

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

Date: 04/30/2004 (442250)

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: 11/30/2005 (471208)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

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

Date: 08/31/2004 (354926)

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: 09/30/2004 (354927)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| IN THE MATTER OF AN | § | BEFORE THE |
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | TEXAS COMMISSION ON |
| CITY OF BARTLETT | § | |
| RN100835487 | § | ENVIRONMENTAL QUALITY |

**AGREED ORDER**
**DOCKET NO. 2007-0115-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 Bartlett ("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 located approximately 0.5 mile northeast of the intersection of State Highway 95 and Farm-to-Market Road 487 in Barlett, Bell County, Texas (the "Facility").

2. The City has discharged wastewater 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 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 Ten Thousand Two Hundred Eighty Dollars ($10,280) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Two Thousand Fifty-Six Dollars ($2,056) 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. Eight Thousand Two Hundred Twenty-Four Dollars ($8,224) 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 may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

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

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

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), TPDES Permit No. 10880001, Final Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A, as documented during a record review conducted on December 5, 2006. See effluent violation table.

Effluent Violation Table
City of Barlett
TPDES Permit No. WQ0010880001
Docket No. 2007-0115-MWD-E

| **Permitted Effluent Limits Outfall 001A** | Monitoring Period End Date | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 7/31/05 | 8/31/05 | 10/31/05 | 11/30/05 | 12/31/05 | 1/31/06 | 2/28/06 | 3/31/06 | 4/30/06 | 5/31/06 | 6/30/06 |
| **Flow** Daily Avg. 0.325 MGD | c | 0.345 | c | c | c | c | c | c | c | c | c |
| **TSS** Daily Avg. 244 lbs/dy (loading) | c | 272.28 | c | c | c | c | c | c | c | c | c |
| **TSS** Daily Avg. 90 mg/L (conc.) | 98.25 | 94.63 | c | 125.76 | 147.70 | c | 102.00 | 93.00 | 97.25 | 90.88 | 99.46 |
| **BOD** Daily Avg. 81 lbs/dy (loading) | c | c | c | c | 96.61 | c | c | 104.69 | c | c | c |
| **BOD** Daily Avg. 30 mg/L (conc.) | c | c | 33.1 | 41.54 | 48.35 | 33.95 | 40.55 | 45.02 | 32.83 | 35.18 | c |

| | | |
|---|---|---|
| TSS = Total Suspended Solids | BOD=Biochemical Oxygen Demand | Flow MGD=Million gallons per day |
| mg/L = Milligrams per liter | lbs/dy = Pounds per day | conc. = concentration |

## 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 Bartlett, Docket No. 2007-0115-MWD-E" to:

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

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eight Thousand Two Hundred Twenty-Four Dollars ($8,224) 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 full completion of all provisions of the SEP agreement.

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

Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10880001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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 Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710

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

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

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

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

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

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

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 8/23/07
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.

_____ APRIL 30, 2007
Signature Date

ARTHUR J. WHITE MAYOR
Name (Printed or typed) Title
Authorized Representative of
City of Bartlett

**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: 2007-0115-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

| | |
|---|---|
| **Respondent:** | City of Bartlett |
| **Penalty Amount:** | Eight Thousand Two Hundred Twenty-Four Dollars ($8,224) |
| **SEP Offset Amount:** | Eight Thousand Two Hundred Twenty-Four Dollars ($8,224) |
| **Type of SEP:** | Custom with Pre-Approved Concept |
| **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 six-week event for the collection and recycling of waste tires, batteries, electronics, and other recyclable or reusable materials. In addition to accepting the items at a designated drop-off location, the Respondent shall pick up items for citizens who have no other way of bringing the materials to the drop-off location. The event will be advertised in two local papers, and on utility bill mailings prior to the event. The Respondent shall ensure that the event:

- offers to the public a convenient drop-off location;
- offers to the public special pick-up for recyclable materials;
- is organized and conducted by City employees and volunteers;
- includes recycling of electronics; and
- is advertised in:
  - a newspaper of large circulation in the geographic area, and
  - utility bill mail-outs.

The Respondent shall collect, transport, dispose of or recycle the collected materials. SEP monies will be used for heavy equipment such as roll-off bins, trailers, overtime labor of employees, public announcement of the event, and disposal and recycling costs.

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 wastes 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. Collection of waste tires will help prevent illegal tire dumps and help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The event 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 progress report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion with the time required above. There are no other interim performance milestones for this collection and recycling event.

B. Final Report

Within 60 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. Manifests and/or receipts to show proper disposal or recycling of collected materials;
4. A statement of quantifiable environmental benefits;
5. Number of tires, appliances, and pounds of electronic waste;
6. Photographs of the project; and
7. 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.