EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-0843-MLM-E **TCEQ ID:** RN101916302 and RN101404887 **CASE NO.:** 25477

RESPONDENT NAME: City of Edgewood

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	X MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X 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 Edgewood Wastewater treatment facility, on the southern bank of Giladon Creek approximately 2,200 feet east of Farm-to-Market Road 859 ("Facility A"); and Public Water Supply, one quarter mile north of County Road 3507 and County Road 3504 ("Facility B"), Van Zandt County

TYPE OF OPERATION: Wastewater treatment facility and public water supply

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement actions regarding this facility location, Docket No. 2007-0258-MWD-E.

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 August 25, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: The Honorable Charles Prater, Mayor, City of Edgewood, P.O. Box 377, Edgewood, Texas 75117
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 _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Dates of Investigations Relating to this Case:** February 17, 2005 and September 16, 2004 **Date of NOV/NOE Relating to this Case:** September 16 and October 6, 2004 and April 29, 2005 (NOEs) **Background Facts:** This was a routine investigation and record review. Three violations were documented. **WATER** **Facility A** 1) Failed to submit a permit renewal application prior to the permit expiration date of March 1, 2002 and continued to discharge after permit expiration [30 TEX. ADMIN. CODE §§ 305.63(a) and 305.125(2) and TEX. WATER CODE § 26.121(a)]. **Facility B** 2) Failed to comply with the maximum contaminant level (MCL) based on a running annual average for trihalomethanes (TTHM) during the third quarter of 2004 [30 TEX. ADMIN. CODE § 290.113(b)(1) and 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)]. 3) Failed to comply with the MCL based on a running annual average for haloacetic acids (HAA5) during the third quarter of 2004 [30 TEX. ADMIN. CODE § 290.113(b)(2) and 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].	**Total Assessed:** $20,447 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $20,447 **Total Paid to General Revenue:** $0 RN101404887 **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No RN101916302 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Respondent shall undertake the following technical requirements for Facility A: a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application; b. 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; c. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits in expired Texas Pollutant Discharge Elimination System Permit No. 10560001; and d. Within 300 days after the effective date of this Agreed Order submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance. 3) The Respondent shall undertake the following technical requirements for Facility B: a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average maximum level for TTHM and HAA5; and b. Within 380 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a.

Attachment A
Docket Number: 2005-0843-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Edgewood**
Payable Penalty Amount:	**Twenty Thousand Four Hundred Forty-Seven Dollars ($20,447)**
SEP Amount:	**Twenty Thousand Four Hundred Forty-Seven Dollars ($20,447)**
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:	**Van Zandt 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, Suite 510
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)

TCEQ

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

DATES					
Assigned	20-Jun-2005				
PCW	07-Jul-2005	Screening	01-Jul-2005	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Edgewood		
Reg. Ent. Ref. No.	RN101404887		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	25477	No. of Violations	2
Docket No.	2005-0843-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Carolyn V. Lind
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2% Enhancement *Subtotals 2, 3, & 7* $10

Notes: The Respondent received an enhancement due to one NOV for other violations.

Culpability Yes 25% Enhancement *Subtotal 4* $125

Notes: The Respondent received alert letters for trihalomethane exceedances on March 2, 2004 and May 14, 2004, and for haloacetic acids exceedances on April 28, 2004 and June 15, 2005.

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

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

Notes: The Respondent is not yet compliant.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$369
Approx. Cost of Compliance	$3,000

SUM OF SUBTOTALS 1-7 Final Subtotal $635

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 $635

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $635

DEFERRAL Reduction Adjustment $0

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

Notes: No deferral due to the assessment of a culpability enhancement.

PAYABLE PENALTY $635

Screening Date 01-Jul-2005 **Docket No.** 2005-0843-MLM-E **PCW**
Respondent City of Edgewood *Policy Revision 2 (September 2002)*
Case ID No. 25477 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101404887
Media [Statute] Public Water Supply
Enf. Coordinator Carolyn V. Lind

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	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*	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) **2%**

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

N/A

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

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

Average Performer

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

>> **Compliance History Summary**

Compliance History Notes The Respondent received an enhancement due to one NOV for other violations.

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

Screening Date 01-Jul-2005 **Docket No.** 2005-0843-MLM-E **PCW**

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

Case ID No. 25477 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101404887

Media [Statute] Public Water Supply

Enf. Coordinator Carolyn V. Lind

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.113(b)(1) and 290.113(f)(4)

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level (MCL) based on a running annual average for trihalomethanes (TTHM) during the third quarter of 2004, as documented during a record review conducted on September 16, 2004. Specifically, the running annual average of TTHM was 0.096 milligrams per liter (mg/L), exceeding the MCL of 0.080 mg/L.

Base Penalty $1,000

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

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

OR

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels protective of human health.

Adjustment -$750

Base Penalty Subtotal $250

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $250

One annual event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $369

Statutory Limit Test

Violation Final Penalty Total $318

This violation Final Assessed Penalty (adjusted for limits) $318

Economic Benefit Worksheet

Respondent City of Edgewood
Case ID No. 25477
Reg. Ent. Reference No. RN101404887
Media [Statute] Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				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)	$3,000	26-Jul-2004	11-Jan-2007	2.5	$369	n/a	$369

Notes for DELAYED costs The estimated cost to implement an alternative method of disinfection, from the third quarter water sample collection date (July 26, 2004) through the date of expected compliance (January 11, 2007).

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 $3,000

TOTAL $369

Screening Date 01-Jul-2005 **Docket No.** 2005-0843-MLM-E **PCW**

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

Case ID No. 25477 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101404887

Media [Statute] Public Water Supply

Enf. Coordinator Carolyn V. Lind

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.113(b)(2) and 290.113(f)(5)

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the MCL based on a running annual average for haloacetic acids (HAA5) during the third quarter of 2004, as documented during a record review conducted on September 16, 2004. Specifically, the running annual average of HAA5 was 0.62 mg/L, exceeding the MCL of 0.060 mg/L.

Base Penalty $1,000

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

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

OR

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels protective of human health.

Adjustment -$750

Base Penalty Subtotal $250

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $250

One annual event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $318

This violation Final Assessed Penalty (adjusted for limits) $318

Economic Benefit Worksheet

Respondent City of Edgewood
Case ID No. 25477
Reg. Ent. Reference No. RN101404887
Media [Statute] Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Notes for DELAYED costs: The economic benefit for this violation is included with Violation No. 1.

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: $0

TOTAL: $0

Compliance History

Customer/Respondent/Owner-Operator:	CN600738512	City of Edgewood	Classification: AVERAGE	Rating: 2.25
Regulated Entity:	RN101404887	CITY OF EDGEWOOD	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING		REGISTRATION LICENSE	2340002 2340002
Location:	LOCATED .25 MI N OF CR 3507 AND 3504, VAN ZANDT CO			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	June 24, 2005			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 24, 2000 to June 24, 2005			

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

Name: Carolyn V. Lind Phone: N/A

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 04/16/2002 (IE0018601001001)
2 08/31/2004 (278618)
3 06/13/2003 (60901)
4 06/17/2005 (395428)
5 08/15/2003 (395356)

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

Date: 08/15/2003 (395356)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 06/2003.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 06/2003.

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

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 10, 2005*

DATES **Assigned** 02-May-2005 **PCW** 12-May-2005 **Screening** 05-May-2005 **EPA Due**

RESPONDENT/FACILITY INFORMATION

Respondent City of Edgewood
Reg. Ent. Ref. No. RN101916302
Facility/Site Region 5-Tyler **Major/Minor Source** Minor Source

CASE INFORMATION

Enf./Case ID No. 25477 **No. of Violations** 1
Docket No. 2005-0843-MLM-E **Order Type** 1660
Media Program(s) Water Quality **Enf. Coordinator** Carolyn V. Lind
Multi-Media **EC's Team** Enforcement Team 1
Admin. Penalty $ Limit Minimum $0 **Maximum** $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $39,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2% Enhancement *Subtotals 2, 3, & 7* $780

Notes: The Respondent received an enhancement due to one NOV for other violations.

Culpability Yes 25% Enhancement *Subtotal 4* $9,750

Notes: The Respondent received a permit renewal reminder notice dated March 30, 2001 and received a permit expiration notice dated May 1, 2002.

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

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

Notes: The Respondent is not yet compliant.

Economic Benefit 0% Enhancement* *Subtotal 6* $0
**Capped at the Total EB $ Amount*

Total EB Amounts $587
Approx. Cost of Compliance $3,000

SUM OF SUBTOTALS 1-7 **Final Subtotal** $49,530

OTHER FACTORS AS JUSTICE MAY REQUIRE 60% Reduction **Adjustment** -$29,718

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

Notes: Recommended reduction due to the minimal potential that the low flows from this facility would significantly impact the environment.

Final Penalty Amount $19,812

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** $19,812

DEFERRAL Reduction **Adjustment** $0

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

Notes: No deferral due to the assessment of a culpability enhancement.

PAYABLE PENALTY $19,812

Screening Date 05-May-2005 **Docket No.** 2005-0843-MLM-E **PCW**
Respondent City of Edgewood *Policy Revision 2 (September 2002)*
Case ID No. 25477 *PCW Revision May 10, 2005*
Reg. Ent. Reference No. RN101916302
Media [Statute] Water Quality
Enf. Coordinator Carolyn V. Lind

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	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*	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) **2%**

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

No

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

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

Average Performer

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

>> **Compliance History Summary**

Compliance History Notes The Respondent received an enhancement due to one NOV for other violations.

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

Screening Date 05-May-2005 **Docket No.** 2005-0843-MLM-E **PCW**

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

Case ID No. 25477 *PCW Revision May 10, 2005*

Reg. Ent. Reference No. RN101916302

Media [Statute] Water Quality

Enf. Coordinator Carolyn V. Lind

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 305.63(a) and 305.125(2)

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

Violation Description Failure to submit a permit renewal application prior to the permit expiration date of March 1, 2002 and continued to discharge after permit expiration into an unnamed tributary of Giladon Creek; thence to Giladon Creek; thence to Mill Creek; thence to the Sabine River below Lake Tawakoni, in Segment No. 0506 of the Sabine River Basin, as documented during the investigation conducted on February 17, 2005.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 39

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

Violation Base Penalty $39,000

Thirty-nine monthly events are recommended from the date the permit expired (March 1, 2002) through the date of screening (May 5, 2005).

Economic Benefit (EB) for this violation

Estimated EB Amount $587

Statutory Limit Test

Violation Final Penalty Total $19,812

This violation Final Assessed Penalty (adjusted for limits) $19,812

Economic Benefit Worksheet

Respondent City of Edgewood
Case ID No. 25477
Reg. Ent. Reference No. RN101916302
Media [Statute] Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				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)	$3,000	01-Mar-2002	27-Jan-2006	3.9	$587	n/a	$587
Notes for DELAYED costs	The approximate cost to prepare and submit a wastewater permit application.						
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 $3,000

TOTAL $587

Compliance History

Customer/Respondent/Owner-Operator:	CN600738512	City of Edgewood	Classification: AVERAGE	Rating: 2.250
Regulated Entity:	RN101916302	CITY OF EDGEWOOD	Classification: AVERAGE	Rating: 0.75
ID Numbers(s):				
Location:	located on the southern bank of Giladon Creek approximately 2,200 feet east of Farm-To-Market Road 859, Van Zandt County, Texas		Rating Date: 9/1/04	Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	May 05, 2005			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 05, 2000 to May 05, 2005			

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

Name: Carolyn V. Lind Phone: (903) 535-5145

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 dates of investigations.

1	03/31/2003	(24888)
2	04/29/2005	(375745)
3	04/20/2001	(38952)

E. Written notices of violations (NOV).

Date: 04/26/2001 (38952)

Self Report?	NO		Classification:	Moderate
Rqmt Prov:		Operation Requirements,1 Description: Failed to maintain the clarifier weirs in good operating condition.		
Self Report?	NO		Classification:	Moderate
Citation:		30 TAC Chapter 319, SubChapter A 319.11(c) Description: Failed to measure the effluent flow at the correct location.		
Self Report?	NO		Classification	Moderate
Rqmt Prov:		Monitoring and Reporting Requirements, 2 Description: Failed to report the correct flow from the 90 V-notch weir flow conversion chart.		
Self Report?	NO		Classification:	Moderate
Rqmt Prov:		Sludge Provisions, Section III, G. Description: Failed to submit the annual reporting requirements for sludge disposal at a municipal solid waste landfill.		

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 EDGEWOOD	§	
RN101916302 AND RN101404887	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2005-0843-MLM-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 Edgewood ("the City") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 341. 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 domestic wastewater treatment facility located on the southern bank of Giladon Creek approximately 2,200 feet east of Farm-To-Market Road 859, Van Zandt County, Texas ("Facility A").

2. The City owns and operates a public water supply located one quarter mile north of County Road 3507 and County Road 3504, Van Zandt County, Texas, that has approximately 612 service connections and serves at least 25 people per day for at least 60 days per year ("Facility B").

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

4. 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.

5. The City received notices of the violations alleged in Section II ("Allegations") on or about September 21, 2004, October 11, 2004, and May 4, 2005.

6. 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.

7. An administrative penalty in the amount of Twenty Thousand Four Hundred Forty-Seven Dollars ($20,447) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Twenty Thousand Four Hundred Forty-Seven Dollars ($20,447) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

8. 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.

9. 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.

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

1. As owner and operator of Facility A, the City is alleged to have failed to submit a permit renewal application prior to the permit expiration date of March 1, 2002 and continued to discharge after permit expiration, in violation of 30 TEX. ADMIN. CODE §§ 305.63(a) and 305.125(2) and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on February 17, 2005.

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

   a. Failed to comply with the maximum contaminant level (MCL) based on a running annual average for trihalomethanes (TTHM) during the third quarter of 2004, in violation of 30 TEX. ADMIN. CODE § 290.113(b)(1) and 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on September 16, 2004; and

   b. Failed to comply with the MCL based on a running annual average for haloacetic acids (HAA5) during the third quarter of 2004, in violation of 30 TEX. ADMIN. CODE § 290.113(b)(2) and 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on September 16, 2004.

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 imposition 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 Edgewood, Docket No. 2005-0843-MLM-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 7 above, Twenty Thousand Four Hundred Forty-Seven Dollars ($20,447) 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 for Facility A:

   a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application 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

   b. 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;

   c. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits in expired Texas Pollutant Discharge Elimination System Permit No. 10560001; and

d. Within 300 days after the effective date of this Agreed Order submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. 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 169A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

4. It is further ordered that the City shall undertake the following technical requirements for Facility B:

a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average maximum level for TTHM and HAA5.

b. Within 380 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 4.a., as described below:

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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for

obtaining the information, I believe that the submitted information is 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 169A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

5. 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 Facilities A and B operations referenced in this Agreed Order.

6. 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.

7. 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.

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

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

10. 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

_____ 8/16/2007
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.

_____ 6/11/07
Signature Date

Charles Prater Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Edgewood

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: 2005-0843-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Edgewood**
Payable Penalty Amount:	**Twenty Thousand Four Hundred Forty-Seven Dollars ($20,447)**
SEP Amount:	**Twenty Thousand Four Hundred Forty-Seven Dollars ($20,447)**
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:	**Van Zandt 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, Suite 510
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.