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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-0089-AIR-E **TCEQ ID:** RN100221225 **CASE NO.:** 32308  
**RESPONDENT NAME:** City of Garland

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Garland Castle Drive Landfill, 3637 Castle Drive, Garland, Dallas County</p> <p><b>TYPE OF OPERATION:</b> Municipal solid waste landfill</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 1, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Ms. Jessica Rhodes, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2879; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896  <b>Respondent:</b> Mr. Lonnie R. Banks, Managing Director, City of Garland, 1434 Commerce Street, Garland, Texas 75040  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> October 24, 2006</p> <p><b>Date of NOE Relating to this Case:</b> December 5, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>AIR</b></p> <p>Failed to submit a timely deviation report. Specifically, the Respondent failed to submit a timely deviation report for the period August 28, 2005 to February 27, 2006. The deviation report was required to be submitted on or before March 29, 2006. The deviation report was submitted on October 30, 2006 [30 TEX. ADMIN. CODE § 122.145(2)(B) and TEX. HEALTH &amp; SAFETY CODE §382.085(b)].</p>	<p><b>Total Assessed:</b> \$2,550</p> <p><b>Total Deferred:</b> \$510  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$2,040</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent submitted the deviation report on October 30, 2006.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).</p>

**Attachment A**  
**Docket Number: 2007-0089-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Garland

**Payable Penalty Amount:** Two Thousand Forty Dollars (\$2,040)

**SEP Amount:** Two Thousand Forty Dollars (\$2,040)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

**Location of SEP:** Dallas County

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

**1. Project Description**

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

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



**2. Performance Schedule**

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

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

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

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

**5. Publicity**

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

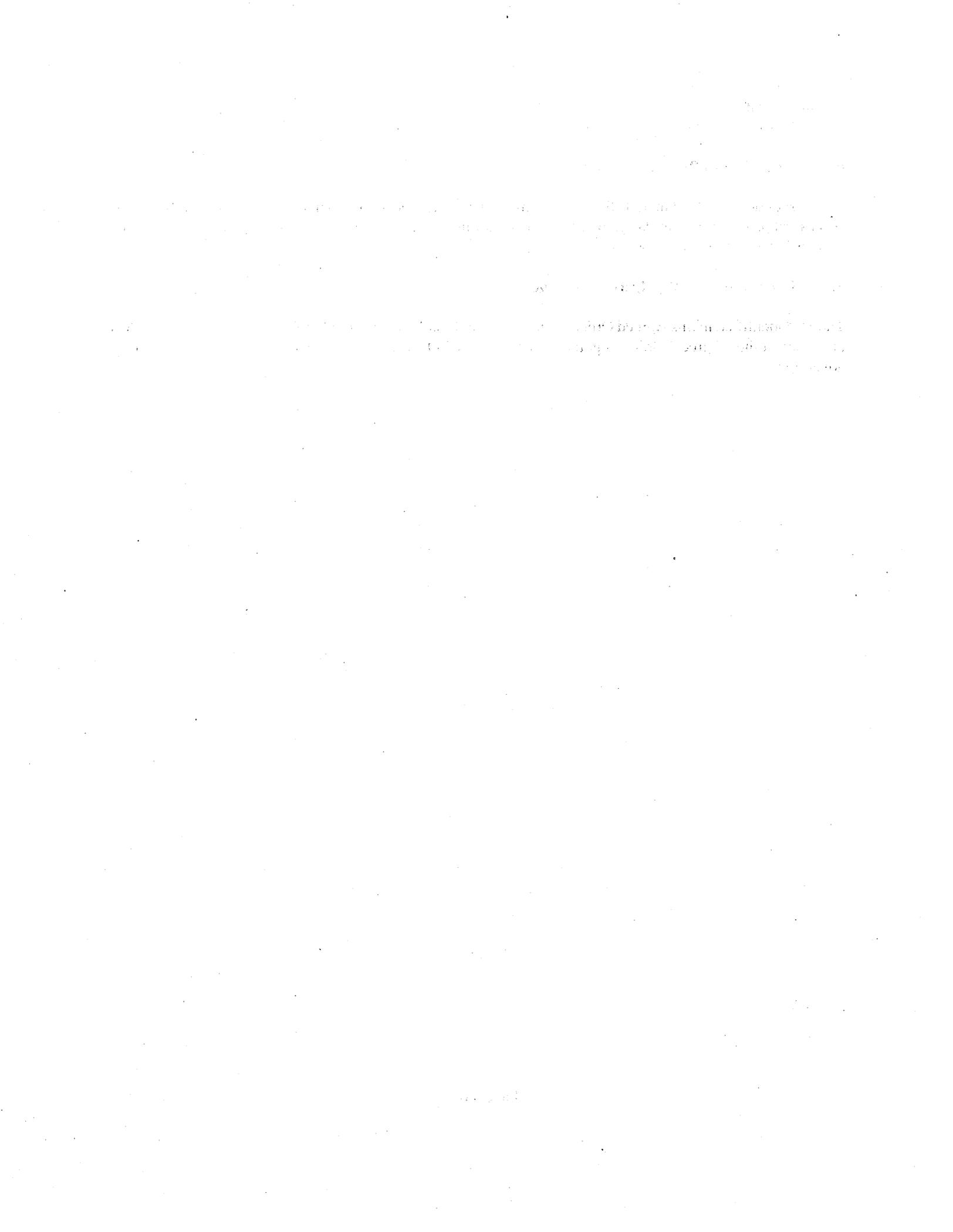


**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	4-Dec-2006	<b>Screening</b>	10-Jan-2007	<b>EPA Due</b>	
	<b>PCW</b>	24-Jan-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Garland
<b>Reg. Ent. Ref. No.</b>	RN100221225
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	32308	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-0089-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air Quality	<b>Enf. Coordinator</b>	Jason Kemp
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

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

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

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

**Compliance History** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

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

**Notes**

**0% Enhancement\*** **Subtotal 6**

**Approx. Cost of Compliance**  **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

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

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 10-Jan-2007

Docket No. 2007-0089-AIR-E

PCW

Respondent City of Garland

Policy Revision 2 (September 2002)

Case ID No. 32308

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100221225

Media [Statute] Air Quality

Enf. Coordinator Jason Kemp

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 judgments 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) 27%

>> 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 compliance history was enhanced by one similar NOV, one non similar NOV, and one 1660-style Administrative Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 10-Jan-2007

Docket No. 2007-0089-AIR-E

PCW

Respondent City of Garland

Policy Revision 2 (September 2002)

Case ID No. 32308

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100221225

Media [Statute] Air Quality

Enf. Coordinator Jason Kemp

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 122.145(2)(B) and Tex. Health and Safety Code § 382.085(b)

Violation Description Failed to submit a timely deviation report for the period August 28, 2005 to February 27, 2006. The deviation report was required to be submitted on or before March 29, 2006. The deviation report was submitted on October 30, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes 100% of the rule was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 215

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$2,550

This violation Final Assessed Penalty (adjusted for limits) \$2,550

## Economic Benefit Worksheet

**Respondent:** City of Garland  
**Case ID No.:** 32308  
**Reg. Ent. Reference No.:** RN100221225  
**Media:** Air Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	29-Mar-2006	30-Oct-2006	0.6	\$15	n/a	\$15
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a deviation report. The date required is the date the deviation report was required to be submitted. The final date is the date the respondent submitted the deviation report.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$500

TOTAL

\$15

## Compliance History

Customer/Respondent/Owner-Operator:	CN600328694 City of Garland	Classification: AVERAGE	Rating: 3.43
Regulated Entity:	RN100221225 CITY OF GARLAND CASTLE DRIVE LANDFILL	Classification: AVERAGE	Site Rating: 9.20
ID Number(s):	AIR NEW SOURCE PERMITS PERMIT 41320 AIR NEW SOURCE PERMITS ACCOUNT NUMBER DB4394P AIR NEW SOURCE PERMITS AFS NUM 4811300840 AIR NEW SOURCE PERMITS PERMIT 48449 MUNICIPAL SOLID WASTE DISPOSAL PERMIT 1062A STORMWATER PERMIT TXR05K980		
Location:	3637 CASTLE DR, GARLAND, TX, 75040	Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	June 07, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 22, 2002 to January 22, 2007		

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

Name: Jason Kemp Phone: (512) 239-5610

### 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.
- |   |                            |
|---|----------------------------|
| Effective Date: 03/03/2005  | ADMINORDER 2002-1353-AIR-E |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)   |                            |
| 5C THC Chapter 382, SubChapter A 382.085(b)   |                            |
| Rqmt Prov: Not specified PERMIT   |                            |
| Description: Failure to submit annual Title V compliance certification.   |                            |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 122, SubChapter B 122.143(14)  |                            |
| 5C THC Chapter 382, SubChapter A 382.085(b)   |                            |
| Rqmt Prov: Not specified PERMIT   |                            |
| Description: Failure to maintain a copy of the facility's permit at the location specified in the authorization to operate. |                            |
- 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  | 05/07/2002 | (283129)         |
| 2  | 07/19/2002 | (IE0002678003001 |
| 3  | 08/27/2002 | (9757)           |
| 4  | 08/30/2002 | (9440)           |
| 5  | 07/23/2003 | (112912)         |
| 6  | 08/28/2003 | (140489)         |
| 7  | 10/01/2003 | (249045)         |
| 8  | 01/13/2004 | (257392)         |
| 9  | 01/20/2005 | (344114)         |
| 10 | 11/21/2005 | (435469)         |
| 11 | 12/01/2006 | (517273)         |

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

Date: 07/25/2003 (112912)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter F 330.130

Description: Failure to monitor for methane as required by the Landfill Gas Management Plan.

Date: 11/22/2005 (435469)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit timely Title V Permit Compliance Certification.

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  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF GARLAND  
RN100221225**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0089-AIR-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 Garland ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 municipal solid waste landfill at 3637 Castle Drive in Garland, Dallas County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 10, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Five Hundred Fifty Dollars (\$2,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Five Hundred Ten Dollars (\$510) is deferred contingent upon the City's timely and satisfactory



compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Two Thousand Forty Dollars (\$2,040) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City submitted the deviation report on October 30, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the City is alleged to have failed to submit a timely deviation report, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on October 24, 2006. Specifically, the City failed to submit a timely deviation report for the period August 28, 2005 to February 27, 2006. The deviation report was required to be submitted on or before March 29, 2006. The deviation report was submitted on October 30, 2006.

## III. DENIALS

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



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Garland, Docket No. 2007-0089-AIR-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, Two Thousand Forty Dollars (\$2,040) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.



7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
  
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdlein  
\_\_\_\_\_  
For the Executive Director

8/9/2007  
\_\_\_\_\_  
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.

Lonnie R. Banks  
\_\_\_\_\_  
Signature

3-30-07  
\_\_\_\_\_  
Date

Lonnie R. Banks  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Garland

Managing Director  
\_\_\_\_\_  
Title

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

Faint, illegible text, possibly bleed-through from the reverse side of the page.

3-30-07

Assistant Director

Louis R. Banks

Louis R. Banks

**Attachment A**  
**Docket Number: 2007-0089-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Garland

**Payable Penalty Amount:** Two Thousand Forty Dollars (\$2,040)

**SEP Amount:** Two Thousand Forty Dollars (\$2,040)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

**Location of SEP:** Dallas County

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

**1. Project Description**

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

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



**2. Performance Schedule**

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

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

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

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

**5. Publicity**

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



**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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

