

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0256-MWD-E TCEQ ID: RN102218435 CASE NO.: 32700

RESPONDENT NAME: City of Kemp

ORDER TYPE:		
<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	
CASE TYPE:		
<input 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 checked="" 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>SITE WHERE VIOLATION(S) OCCURRED: City of Kemp, approximately 0.8 miles west-southwest of the intersection of State Route 274 and U. S. Route 175, approximately 1.5 miles southwest of the City of Kemp, Kaufman County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 11, 2007. No comments were received.</p> <p>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, II, MC 219, (512) 239-5363; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. James Stroman, City Administrator, City of Kemp, Post Office Box 449, Kemp, Texas 75143 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: 12/20/2006</p> <p>Date of NOE Relating to this Case: 2/2/2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violations was documented.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limits as documented during a record review conducted on December 20, 2006. See attached table [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 10695001, Effluent Limitations and Monitoring Requirement No.1].</p>	<p>Total Assessed: \$12,530</p> <p>Total Deferred: \$2,506 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$10,024</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent constructed a new wastewater treatment plant and began operating the plant on January 25, 2007.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).</p> <p>3) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10695001.</p>

Attachment A
Docket Number: 2007-0256-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Kemp
Payable Penalty Amount: Ten Thousand Twenty-Four Dollars (\$10,024)
SEP Amount: Ten Thousand Twenty-Four Dollars (\$10,024)
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: Kaufman County

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

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

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	14-Feb-2007	Screening	20-Feb-2007	EPA Due	
	PCW	21-Feb-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Kemp		
Reg. Ent. Ref. No.	RN102218435		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32700	No. of Violations	2	
Docket No.	2007-0256-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short	
Multi-Media		EC's Team	Enforcement Team 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$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 102% Enhancement Subtotals 2, 3, & 7

Notes: A 102% enhancement is recommended for having 19 NOVs for self-reported effluent data, one NOV for the same or similar violations, and one NOV for non-similar violations within the last five years.

Culpability No 0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5

	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.

Total EB Amounts Approx. Cost of Compliance 0% Enhancement* Subtotal 6
*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: 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

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 20-Feb-2007

Docket No. 2007-0256-MWD-E

PCW

Respondent City of Kemp

Policy Revision 2 (September 2002)

Case ID No. 32700

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102218435

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Compliance History Worksheet

>> Compliance History Sife 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)	20	100%
	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%
<i>Please Enter Yes or No</i>			
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) 102%

>> 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 102% enhancement is recommended for having 19 NOVs for self-reported effluent data, one NOV for the same or similar violations, and one NOV for non-similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 102%

Screening Date 20-Feb-2007

Docket No. 2007-0256-MWD-E

PCW

Respondent City of Kemp

Policy Revision 2 (September 2002)

Case ID No. 32700

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102218435

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 10695001, Effluent Limitations and Monitoring Requirement No.1

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on December 20, 2006. See attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Kemp
Case ID No. 32700
Reg. Ent. Reference No. RN102218435
Media Water 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

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)	\$4,000	31-Oct-2005	21-Oct-2007	2.0	\$395	n/a	\$395

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

\$4,000

TOTAL

\$395

Screening Date 20-Feb-2007

Docket No. 2007-0256-MWD-E

PCW

Respondent City of Kemp

Policy Revision 2 (September 2002)

Case ID No. 32700

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102218435

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 10695001, Effluent Limitations and Monitoring Requirement No.1

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on December 20, 2006. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand ("CBOD") and ammonia nitrogen ("NH3-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow 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 2 154 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	x
	annual	
	single event	

Violation Base Penalty \$2,000

Two semiannual events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,580

This violation Final Assessed Penalty (adjusted for limits) \$3,580

Economic Benefit Worksheet

Respondent City of Kemp
Case ID No. 32700
Reg. Ent. Reference No. RN102218435
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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

See 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

Effluent Violation Table
City of Kemp
TPDES Permit No. 10695001 (Outfall 001B)
Docket No. 2007-0256-MWD-E

Permitted Effluent Limits	Monitoring Period End Date								
	09/30/2005	10/31/05	12/31/2005	01/31/2006	02/28/06	03/31/06	04/30/06	05/31/2006	08/31/2006
NH ₃ -N Daily Avg. 2 mg/L	4.48	16.2	3.92	6.3	17.5	16.5	14.6	5.91	8.09
NH ₃ -N Single Grab 10 mg/L	21.2	30.2	C	C	23.7	25.6	26.2	C	C
NH ₃ -N Daily Avg. 3.3 lbs/dy	3.98	16.3	3.85	4.5	12.6	11	9.6	3.93	4.36
CBOD Daily Avg. 7 mg/L	C	9.0	C	C	8.7	C	13.2	C	C
CBOD Single Grab mg/L	C	C	C	C	C	C	35.3	C	C

Avg. = average	C = compliant	mg/L = milligrams per liter
Lbs/dy = pounds per day	NH ₃ -N= ammonia nitrogen	CBOD= carbonaceous biochemical oxygen demand

Compliance History

Customer/Respondent/Owner-Operator:	CN600681027	City of Kemp	Classification: AVERAGE	Rating: 0.94
Regulated Entity:	RN102218435	CITY OF KEMP	Classification: AVERAGE	Site Rating: 0.94
ID Number(s):	WASTEWATER	PERMIT		WQ0010695001
	WASTEWATER	PERMIT		TPDES0023396
	WASTEWATER	PERMIT		TX0023396
	WASTEWATER LICENSING	LICENSE		WQ0010695001
Location:	APPROXIMATELY 0.8 MILES WEST-SOUTHWEST OF THE INTERSECTION OF STATE ROUTE 274 AND U. S. ROUTE 175, APPROXIMATELY 1.5 MILES SOUTHWEST OF THE CITY OF KEMP			Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	February 14, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 14, 2002 to February 14, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Samuel Short</u>	Phone:	<u>(512) 239-5363</u>	

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 | 02/19/2002 | (167603) |
| 2 | 04/01/2002 | (167606) |
| 3 | 04/17/2002 | (167608) |
| 4 | 05/17/2002 | (167614) |
| 5 | 06/12/2002 | (1432) |
| 6 | 06/17/2002 | (167616) |
| 7 | 10/16/2002 | (167628) |
| 8 | 11/15/2002 | (167631) |
| 9 | 04/02/2003 | (167619) |
| 10 | 04/02/2003 | (167622) |
| 11 | 04/02/2003 | (167625) |
| 12 | 04/02/2003 | (167634) |
| 13 | 04/02/2003 | (167638) |
| 14 | 04/02/2003 | (167604) |
| 15 | 05/07/2003 | (167611) |
| 16 | 05/19/2003 | (35224) |
| 17 | 06/23/2003 | (299384) |
| 18 | 07/14/2003 | (299386) |
| 19 | 07/17/2003 | (299385) |
| 20 | 07/18/2003 | (299383) |
| 21 | 07/18/2003 | (353723) |
| 22 | 07/25/2003 | (146084) |
| 23 | 09/17/2003 | (299387) |

24	10/20/2003	(299388)
25	11/18/2003	(299389)
26	12/16/2003	(299390)
27	01/22/2004	(299391)
28	02/20/2004	(299380)
29	03/15/2004	(299381)
30	04/19/2004	(299382)
31	05/17/2004	(353724)
32	06/18/2004	(353725)
33	07/19/2004	(353726)
34	08/26/2004	(353727)
35	09/20/2004	(353728)
36	11/29/2004	(382760)
37	12/20/2004	(382761)
38	01/20/2005	(382762)
39	02/17/2005	(382758)
40	03/01/2005	(346607)
41	03/15/2005	(382759)
42	04/18/2005	(420568)
43	05/18/2005	(420569)
44	06/16/2005	(377095)
45	06/24/2005	(420570)
46	07/26/2005	(420571)
47	08/19/2005	(441586)
48	09/20/2005	(441587)
49	10/20/2005	(469956)
50	12/08/2005	(469957)
51	02/17/2006	(469954)
52	03/23/2006	(469955)
53	04/18/2006	(499138)
54	05/19/2006	(499139)
55	06/16/2006	(499140)
56	07/19/2006	(499141)
57	08/15/2006	(521181)
58	09/18/2006	(521182)
59	02/02/2007	(534910)

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

Date	02/28/2003	(353723)		
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	05/21/2003	(35224)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a)[G] 30 TAC Chapter 319, SubChapter A 319.7(c)			
Description:	Failure to temperature log for refrigerator			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)			
Description:	Failure to have DMRs for 2/03 and 6/02			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C)[G]			
Description:	Failure to have trip tickets available for review			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to have the Annual Sludge Report available for review during the investigation			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)			
Description:	Failure to have RPZ			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d)[G]			
Description:	sludge depth in clarifier			
Date	05/31/2003	(299384)		

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	06/30/2003 (299385)		
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	08/31/2003 (299387)		
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	09/30/2003 (299388)		
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 (299380)		
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	02/28/2005 (382759)		
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	03/04/2005 (346607)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to produce effluent quality within permit parameters for total suspended solids.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.4		
Description:	A review of laboratory analysis revealed that a mixture of CBOD and BOD testing has been performed when all testing should have been for BOD.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C)[G]		
Description:	Failure to submit the Annual Sludge Report to the DFW Region Office per permit requirement Section III, Requirements Applying to all Sewage Sludge Disposed in a Municipal Solid Waste Landfill, Item G, Reporting Requirements. A copy of the ASR was requested during the exit interview, see attached form, but only the TCL		
Date	05/31/2005 (420570)		
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 (420571)		
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 (441586)		
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 (469955)		
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 (499138)		

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 (499139)		
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 (499140)		
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	08/31/2006 (521182)		
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	09/30/2005		
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		
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	12/31/2005		
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		
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
ENFORCEMENT ACTION
CONCERNING
CITY OF KEMP
RN102218435**

§ **BEFORE THE**
§ **TEXAS COMMISSION ON**
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0256-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 City of Kemp ("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 at approximately 0.8 miles west-southwest of the intersection of State Route 274 and U. S. Route 175, approximately 1.5 miles southwest of the City of Kemp in Kaufman County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about February 7, 2007.
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 Twelve Thousand Five Hundred Thirty Dollars (\$12,530) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Five Hundred Six Dollars (\$2,506) 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. Ten Thousand Twenty-Four Dollars (\$10,024) 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 constructed a new wastewater treatment plant and began operating the plant on January 25, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 10695001, Effluent Limitations and Monitoring Requirement No.1, as documented during a record review conducted on December 20, 2006, as indicated in the table below.

Effluent Violation Table									
Permitted Effluent Limits	Monitoring Period End Date								
	09/30/2005	10/31/05	12/31/2005	01/31/2006	02/28/06	03/31/06	04/30/06	05/31/2006	08/31/2006
NH ₃ -N Daily Avg. 2 mg/L	4.48	16.2	3.92	6.3	17.5	16.5	14.6	5.91	8.09
NH ₃ -N Single Grab 10 mg/L	21.2	30.2	C	C	23.7	25.6	26.2	C	C
NH ₃ -N Daily Avg. 3.3 lbs/dy	3.98	16.3	3.85	4.5	12.6	11	9.6	3.93	4.36
CBOD Daily Avg. 7 mg/L	C	9.0	C	C	8.7	C	13.2	C	C
CBOD Single Grab mg/L	C	C	C	C	C	C	35.3	C	C

Avg. = average	C = compliant	mg/L = milligrams per liter
Lbs/dy = pounds per day	NH ₃ -N= ammonia nitrogen	CBOD= carbonaceous biochemical oxygen demand

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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 Kemp, Docket No. 2007-0256-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, Ten Thousand Twenty-Four Dollars (\$10,024) 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:

Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10695001. 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:

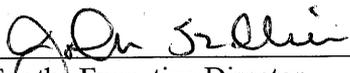
Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

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



For the Executive Director

8/2/07
Date

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

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

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

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



Signature

3-30-07
Date

James Stroman
Name (Printed or typed)
Authorized Representative of
City of Kemp

City Administrator
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.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY

RESEARCH REPORT
NO. 1000

BY
J. H. GOLDSTEIN AND
R. F. FIESCHER

DEPARTMENT OF CHEMISTRY
UNIVERSITY OF CHICAGO
CHICAGO, ILLINOIS

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ANN ARBOR, MICHIGAN

Attachment A
Docket Number: 2007-0256-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Kemp
Payable Penalty Amount:	Ten Thousand Twenty-Four Dollars (\$10,024)
SEP Amount:	Ten Thousand Twenty-Four Dollars (\$10,024)
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:	Kaufman County

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

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

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

