

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2004-0623-MWD-E TCEQ ID: RN101919553 CASE NO.:14968

RESPONDENT NAME: CITY OF KERENS

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: 0.5 mi sw of the City of Kerens adjacent to FM 633, Navarro County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There is one complaint against this Respondent. 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. The complainant has not indicated an interest in attending or protesting at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 9, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Mark Curnutt, Litigation Division, MC 175, (512) 239-0624 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Pamela Campbell, MC 169, Section I, (512) 239- 4493 TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901 Respondent: The Honorable Joe Baxter, Mayor of City of Kerens, P. O. Box 160, Kerens, Texas 75144 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:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: February 6, 2004</p> <p>Dates of Investigation Relating to this Case: January 8, 2003, September 30, 2003 and February 6, 2004</p> <p>Date of NOV/NOE Relating to this Case: February 21, 2003 (NOV), February 26, 2004, (NOE)</p> <p>Background Facts: An EDRP was filed on April 22, 2005. An Agreed Order was signed April 4, 2007.</p> <p>MWD:</p> <p>1. Failed to maintain the collection system to prevent repeat overflows from storm water infiltration and inflow ("I/I") [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 10745-001 Permit Condition No. 2(g), and TEX. WATER CODE § 26.121(a)].</p> <p>2. Failed to report sewer overflow [30 TEX. ADMIN. CODE § 305.125(9), TPDES Permit No. 10745-001 Monitoring and reporting Requirements No. 7(a), and TEX. WATER CODE § 26.039(b)].</p>	<p>Total Assessed: \$5,520</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$5,250</p> <p>Total Due to General Revenue: \$0</p> <p>The \$5,250 administrative penalty is conditionally offset pending the Respondent's completion of a Supplemental Environmental Project ("SEP").</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>Ordering Provision(s)</p> <p>The City shall undertake the following technical requirements:</p> <p>1. Immediately submit noncompliance notification for all unauthorized discharges to the TCEQ Dallas/Fort Worth Regional Office orally or by facsimile within 24 hours of becoming aware of the noncompliance.</p> <p>2. Within 90 days, submit to the TCEQ a comprehensive Sewer System Evaluation Survey Plan ("SSESP") of the City's treatment units, collection system lines, and lift stations. The SSESP shall be prepared by a Texas registered professional engineer and shall include, at a minimum, the following:</p> <ul style="list-style-type: none"> a. Emphasis on locating all inflow sources including rainfall induced infiltration and dry weather blockages; and b. A complete implementation schedule, broken down by calendar year. The SSESP shall be completed no later than December 31, 2010. c. Submit to the TCEQ an Annual Report that summarizes the results of the previous year's implementation of the SSESP. The Annual Report shall also include any corrective actions resulting from the implementation of the above SSESP, which include improvements, repair, replacement, and/or rehabilitation of the collection system lines and lift stations to eliminate unauthorized discharges. The Annual Report shall include a schedule for corrective actions with dates for obtaining permit amendments, approval of plans, specifications, implementation, and completion of the project. <p>3. Upon Executive Director approval or approval with modifications, the Respondent shall implement the SSESP in accordance with the approved schedule.</p>

		<p>4. By January 15, 2011, submit in writing certification of compliance with Ordering Provisions 2 and 3.</p> <p>5. The Order will require the Respondent to complete a Supplemental Environmental Project. (see Attachment A)</p>
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Attachment A

Docket Numbers: 2004-0623-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Kerens
Penalty Amount: Five Thousand Five Hundred Twenty dollars (\$5,520)
SEP Offset Amount: Five Thousand Five Hundred Twenty dollars (\$5,520)
Type of SEP: Custom
Location of SEP: Navarro County

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

1. **Project Description**

A. Project

Respondent shall hold a one-day event for the collection, recycling, or disposal of tires, batteries, electronics, and lawn clippings. Respondent shall offer to the public a designated drop-off location where the public can drop off wastes for disposal and recycling at no cost to the citizens. The event will be advertised in two local papers (The Kerens Tribune and the Corsican Daily Sun), on local radio stations, on the internet, and in utility bill mailings.

Respondent shall ensure that the event:

- occurs on at least one weekend day during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees and volunteers;
- includes recycling of electronics and vegetative debris; and
- is advertised in:
 - at least one newspaper of large circulation in the geographic area,
 - the internet,
 - radio, and
 - utility bill mail-outs.

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

Respondent shall perform this project in accordance with all federal, state and local laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no

portion shall be spent on administrative costs. Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

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

B. Environmental Benefit

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes (“CRT”) are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of wastes that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Collection of waste tires will help prevent illegal tire dumps and help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The event will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. Respondent understands that it may spend more than the offset amount to complete the project.

2. Performance Schedule

Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion with the time required above. There are no other interim performance milestones for this collection and recycling event.

B. Final Report

Within 90 days after completion of the project, Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires, appliances, batteries, and pounds of electronic waste;
5. Photographs of the project;
6. Manifests showing proper disposal of wastes or recycling of materials; and
7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087

City of Kerens
Agreed Order – Attachment A 2004-0623-MWD-E

Austin, Texas 78711-3087

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

DATES		PCW 8-Jun-2004	Screening 23-Apr-2004	Priority Due 21-Aug-2004	EPA Due
RESPONDENT INFORMATION					
Respondent City of Kerens					
Respondent/Site ID No(s) CN600605349, RN101919553, TPDES Permit No. 10745-001					
Facility/Site Region 4 - Dallas/Fort Worth				Major/Minor Source Minor	
CASE INFORMATION					
Enf./Case ID No(s)		CCEDS Case No. 14968		No. Violations 2	
Docket No.		2004-0623-MWD-E		Order Type 1660 without deferral	
Case Priority		3		EC's Team Enforcement Team 8	
Enf. Coordinator		Pamela Campbell		Media Program(s) Water Quality	
Admin. Penalty \$ Limit		Minimum \$0	Maximum \$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 38% Enhancement **Subtotals 2, 3 & 7** \$1,520

Notes: The Respondent received a Commission Order, Docket No. 1998-0460-MWD-E and NOV's dated January 11, 2001 and February 21, 2003 for the same or similar violations, and self-reported 4 months of effluent violations. +

Culpability 0% Enhancement **Subtotal 4** \$0

Notes: No Select Yes/No
The Respondent does not meet the culpability criteria. +

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

	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
None of the above	X	(mark with small x)	

Notes: The Respondent is not yet in compliance. +

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

\$704	Total EB Amounts	*Capped at the Total EB \$ Amount	=
\$10,010	Approx. Cost of Compliance		

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$5,520

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 \$5,520

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$5,520

DEFERRAL Deferral 0% Reduction **Adjustment** \$0

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

Notes: No deferral because the respondent received a Commission Order, Docket No. 1998-0460-MWD-E and an NOV dated February 21, 2003 for the same or similar violations. =

PAYABLE PENALTY \$5,520

Screening Date	23-Apr-2004	Docket Number	2004-0623-MWD-E	PCW
Respondent	City of Kerens			Policy Revision 2 (09/02)
Case ID No.	CCEDS Case No. 14968			PCW Revision 2/10/2004
Respondent/Site ID No.	CN600605349, RN101919553, TPDES Permit No. 10745-001			
Media [Statute]	Water Quality			
Enf. Coordinator	Pamela Campbell			
Site Address	Located approximately 1/2 mile southwest of the City of Kerens, adjacent to Farm-to-Market Road 633 in Navarro County, Texas			

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)	2	10%
	Other written NOVs	4	8%
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 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) 38%

>> Repeat Violator (Subtotal 3)

 Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

 Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance History Notes

The Respondent received a Commission Order, Docket No. 1998-0460-MWD-E and NOVs dated January 11, 2001 and February 21, 2003 for the same or similar violations, and self-reported 4 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 38%

Screening Date	23-Apr-04	Docket Number	2004-0623-MWD-E	PCW
Respondent	City of Kerens		Policy Revision 2 (09/02)	
Case ID No.	CCEDS Case No. 14968		PCW Revision 2/10/2004	
Respondent/Site ID No.	CN600605349, RN101919553, TPDES Permit No. 10745-001			
Media [Statute]	Water Quality			
Enf. Coordinator	Pamela Campbell			
Violation Number	1			
Primary Rule Cite	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. 10745-001 Permit Conditions No. 2(g)			
Secondary Cite(s)				
Violation Description	Unauthorized discharges by failure to maintain the collection system to prevent repeat overflows from stormwater inflow and infiltration ("I/I"). On February 6, 2004, the Dallas/Fort Worth Regional Office received a complaint that a manhole and cleanouts near the Kerens Apartments, 200 Daniel Drive was overflowing. The Region documented overflows from the same location during investigations on January 8, 2003 and September 30, 2003.			

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix														
	Harm													
	<table border="1"> <tr> <td>Release</td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>	Release	Major	Moderate	Minor	Actual			x	Potential				Percent 10%
Release	Major	Moderate	Minor											
Actual			x											
Potential														
OR														
» Programmatic Matrix														
	<table border="1"> <tr> <td>Falsification</td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table>	Falsification	Major	Moderate	Minor					Percent				
Falsification	Major	Moderate	Minor											
OR														
Matrix Notes	Human health and the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment as a result of this violation.													
	Adjustment	-\$9,000												
	Base Penalty Subtotal	\$1,000												

Violation Events														
	Number of Violation Events	3												
<i>mark only one; use small x</i>	<table border="1"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty \$3,000
daily														
monthly														
quarterly														
semiannual														
annual														
single event	x													
Events Notes	Three single events are recommended based on investigations conducted on January 8, 2003, September 30, 2003, and February 6, 2004.													

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$704	Violation Final Penalty total \$4,140
This Violation Final Assessed Penalty (adjusted for limits) \$4,140	

Economic Benefit Worksheet

Respondent: City of Kerens
 ID Number(s): CCEDS Case No. 14968
 Media [Statute]: Water Quality
 Violation Number: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	30-Sep-2003	1-Oct-2004	1.0	\$34	\$670	\$704
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

This is the estimated cost to repair the portion of the collection system that is affected by I/I.

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/equip				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

TOTAL

Screening Date	23-Apr-04	Docket Number	2004-0623-MWD-E	PCW
Respondent	City of Kerens			Policy Revision 2 (09/02)
Case ID No.	CCEDS Case No. 14968			PCW Revision 2/10/2004
Respondent/Site ID No.	CN600605349, RN101919553, TPDES Permit No. 10745-001			
Media [Statute]	Water Quality			
Enf. Coordinator	Pamela Campbell			
Violation Number	2			
Primary Rule Cite	30 Tex. Admin. Code § 305.125(9), TPDES Permit No. 10745-001 Monitoring and Reporting Requirements No. 7(a) and Tex. Water Code § 26.039(b)			
Secondary Cite(s)				
Violation Description	Failure to report the sewer overflow that occurred on February 6, 2004 either verbally within 24 hours and/or in writing within 5 days after becoming aware of the noncompliance, as documented during the February 6, 2004 investigation.			
		Base Penalty		\$10,000

» Environmental, Property and Human Health Matrix					
		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
» Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
OR		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="10%"/>
Matrix Notes	Failure to submit a non-compliance notification negated 100% of the intent of this rule and permit requirements.				
		Adjustment	<input type="text" value="-\$9,000"/>		
		Base Penalty Subtotal		\$1,000	

Violation Events				
	Number of Violation Events	<input type="text" value="1"/>		
<i>mark only one; use small x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
			Violation Base Penalty	\$1,000
Events Notes	One single event is recommended as documented during the February 6, 2004.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) <input type="text" value="\$0"/>	Violation Final Penalty total <input type="text" value="\$1,380"/>
This Violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,380"/>	

Economic Benefit Worksheet

Respondent City of Kerens
ID Number(s) CCEDS Case No. 14968
Media [Statute] Water Quality
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$10	5-Feb-2004	6-Feb-2004	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

This is the estimated cost to prepare a noncompliance notification and submit it to the Dallas/Fort Worth Regional Office and to the TCEQ Enforcement Division.

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/equip				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 \$10

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600605349 CITY OF KERENS	Classification: AVERAGE	Rating: 2.520
Regulated Entity:	RN101919553 CITY OF KERENS	Classification: AVERAGE	Site Rating: 1.06
ID Number(s):	WASTEWATER	PERMIT	TPDES0023027
	WASTEWATER	PERMIT	WQ0010745001
	WASTEWATER LICENSING	LICENSE	WQ0010745001
Location:	LOCATED APPROX 0.5 MI SW OF THE CITY OF KERENS ADJACENT TO FM 633 IN NAVARRO COUNTY TX		Rating Date: 9/1/03 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	April 23, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 23, 1999 to April 23, 2004		

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

Name: Pamela Campbell Phone: 512 239-4493

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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: 7/9/99 ADMINORDER 1998-0460-MWD-E
- Classification: Minor
- Citation: TWC Chapter 26 26.121
- Citation: Not specified PERMIT
OP 2b ORDER
- Description: Unauthorized discharge of wastewater which exceeded the city's ammonia nitrogen permitted limit.
- 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 | 04/20/2000 | (166834) |
| 2 | 02/25/2002 | (166835) |
| 3 | 02/28/2003 | (166836) |
| 4 | 04/20/2001 | (166837) |
| 5 | 03/18/2002 | (166838) |
| 6 | 12/15/2003 | (250377) |
| 7 | 03/24/2003 | (166839) |
| 8 | 04/20/2000 | (166840) |
| 9 | 04/24/2002 | (166841) |
| 10 | 04/24/2003 | (166842) |
| 11 | 05/23/2002 | (166843) |
| 12 | 05/19/2003 | (166844) |
| 13 | 06/19/2000 | (166845) |

14 06/24/2002 (166846)
 15 06/20/2003 (166847)
 16 07/18/2002 (166848)
 17 07/24/2003 (166849)
 18 01/11/2001 (38468)
 19 08/20/2001 (166850)
 20 08/19/2002 (166851)
 21 09/21/2001 (166852)
 22 09/26/2002 (166853)
 23 10/19/2001 (166854)
 24 10/21/2002 (166855)
 25 10/20/1999 (166856)
 26 11/21/2001 (166857)
 27 11/21/2002 (166858)
 28 01/20/2000 (166859)
 29 01/18/2001 (166860)
 30 12/19/2001 (166861)
 31 12/19/2002 (166862)
 32 01/20/2000 (166863)
 33 01/22/2002 (166864)
 34 01/21/2003 (166865)
 35 01/20/2000 (166866)
 36 03/06/2003 (21085)

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

Date: 02/21/2003 (21085)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter O 305.535(c)(1)[G]

Description: Unauthorized discharge from a lift station in the collection system.

Self Report? NO

Classification: Minor

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

Description: Failure to comply with the effluent chlorine limit.

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: Sludge disposal manifests and annual sludge report not available for review or submitted for review at the time of the investigation.

Date: 02/28/2002 (166838)

Self Report?

Classification: Moderate

YES

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: 01/11/2001 (38468)

Self Report? NO

Classification: Moderate

Rqmt Prov: OP IA

Description: FAILURE TO COMPLY

Date: 08/31/2002 (166853)

Self Report?

Classification: Moderate

YES

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: 09/30/1999 (166856)

Self Report?

Classification: Moderate

YES

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: 10/31/1999 (166859)

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 KERENS;
RN101919553

§
§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2004-0623-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Kerens ("the City") under the authority of TEX. WATER CODE chs. 7, and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located at located approximately 0.5 mile southwest of the City of Kerens adjacent to Farm-to-Market Road 633, Kerens, Navarro County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the TCEQ rules.
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 March 2, 2004.
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 five thousand five hundred twenty dollars (\$5,520.00) is assessed by the Commission in settlement of the violations alleged in Section

- II ("Allegations"). Five thousand five hundred twenty dollars (\$5,520.00) shall be conditionally offset by the City's completion of a Supplemental Environmental Project (SEP) as 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.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

The City is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10745-001 Permit Condition No. 2(g), and TEX. WATER CODE § 26.121(a) by failing to maintain the collection system to prevent repeat overflows from stormwater infiltration and inflow ("I/I"), as documented during investigations conducted on January 8, 2003, September 30, 2003, and February 6, 2004; and
2. 30 TEX. ADMIN. CODE § 305.125(9), TPDES Permit No. 10745-001 Monitoring and Reporting Requirements No. 7(a), and TEX. WATER CODE § 26.039(b) by failing to report the sewer overflow that occurred on February 6, 2004, as documented during an investigation conducted on February 6, 2004.

III. DENIALS

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

IV. ORDER

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 considering 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 Kerens, Docket No. 2004-0623-MWD-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, five thousand five hundred twenty dollars (\$5,520.00) of the assessed administrative penalty shall be offset with the condition that the City's completes the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement defined in Attachment A.
3. The City shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, the City shall submit noncompliance notification for all unauthorized discharges to the TCEQ Dallas/Fort Worth Regional Office orally or by facsimile within 24 hours of becoming aware of the noncompliance. The City shall submit written submission of the noncompliance to the TCEQ Dallas/Fort Worth Regional Office and the TCEQ Enforcement Division within five working days of becoming aware of the noncompliance. Information shall be submitted in accordance with 30 TEX. ADMIN. CODE § 305.125(9)
 - b. Within 90 days after the effective date of this Agreed Order, submit to the TCEQ a comprehensive Sewer System Evaluation Survey Plan ("SSESP") of the City's treatment units, collection system lines, and lift stations. The SSESP shall be

prepared by a Texas registered professional engineer and shall include, at a minimum, the following:

- i. Emphasis on locating all inflow sources including rainfall induced infiltration and dry weather blockages.
 - ii. A complete implementation schedule, broken down by calendar year. The SSESP shall be completed no later than December 31, 2010.
 - iii. An Annual Report that summarizes the results of the previous year's implementation of the SSESP. The Annual Report shall also include any corrective actions resulting from the implementation of the above SSESP, which include improvements, repair, replacement, and/or rehabilitation of the collection system lines and lift stations to eliminate unauthorized discharges. The Annual Report shall include a schedule for corrective actions with dates for obtaining permit amendments, approval of plans, specifications, implementation, and completion of the project.
- c. Upon Executive Director approval or approval with modifications, the City shall implement the SSESP in accordance with the approved schedule.
- d. By January 15, 2011, submit in writing certification of compliance with Ordering Provisions 3.b. and c. The certification shall be notarized by a State of Texas Notary Public and include the following 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."

- e. The City shall Submit all correspondence, reports, and documentation required by these Ordering Provisions 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:

Mr. Sid Slocum, Manager
Water Section
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Dallas/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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order 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

6/20/07

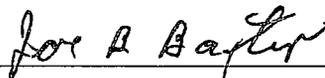
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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

April 4, 2007

Date

Joe B. Baxter

Name (Printed or typed)
Authorized representative of
City of Kerens

Mayor

Title

Attachment A

Docket Numbers: 2004-0623-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Kerens
Penalty Amount: Five Thousand Five Hundred Twenty dollars (\$5,520)
SEP Offset Amount: Five Thousand Five Hundred Twenty dollars (\$5,520)
Type of SEP: Custom
Location of SEP: Navarro County

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

1. Project Description

A. Project

Respondent shall hold a one-day event for the collection, recycling, or disposal of tires, batteries, electronics, and lawn clippings. Respondent shall offer to the public a designated drop-off location where the public can drop off wastes for disposal and recycling at no cost to the citizens. The event will be advertised in two local papers (The Kerens Tribune and the Corsican Daily Sun), on local radio stations, on the internet, and in utility bill mailings.

Respondent shall ensure that the event:

- occurs on at least one weekend day during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees and volunteers;
- includes recycling of electronics and vegetative debris; and
- is advertised in:
 - at least one newspaper of large circulation in the geographic area,
 - the internet,
 - radio, and
 - utility bill mail-outs.

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

Respondent shall perform this project in accordance with all federal, state and local laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no

portion shall be spent on administrative costs. Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

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

B. Environmental Benefit

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes (“CRT”) are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of wastes that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Collection of waste tires will help prevent illegal tire dumps and help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The event will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. Respondent understands that it may spend more than the offset amount to complete the project.

2. **Performance Schedule**

Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. **Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion with the time required above. There are no other interim performance milestones for this collection and recycling event.

B. Final Report

City of Kerens
Agreed Order – Attachment A 2004-0623-MWD-E

Within 90 days after completion of the project, Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires, appliances, batteries, and pounds of electronic waste;
5. Photographs of the project;
6. Manifests showing proper disposal of wastes or recycling of materials; and
7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087

City of Kerens
Agreed Order – Attachment A 2004-0623-MWD-E

Austin, Texas 78711-3087

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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