

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0564-MWD-E **TCEQ ID:** RN102075801 **CASE NO.:** 33185

RESPONDENT NAME: City of Morgan's Point

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 Morgans Point Wastewater Treatment Facility, located at the southwest corner of the intersection of Barbours Cut Boulevard and North Wilson Street, Morgans Point, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 September 3, 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: Ms. Deana Holland, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2506; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable Peggy Arisco, Mayor, City of Morgan's Point, P.O. Box 839, La Porte, Texas 77572 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: February 28, 2007</p> <p>Date of NOE Relating to this Case: March 23, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. Three violations were documented.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), TPDES Permit No. 10779001, Effluent Limitations and Monitoring Requirement No. 2].</p> <p>2) Failure to timely submit monitoring results at the intervals specified in the permit. Specifically, the sludge report for the monitoring period ending July 31, 2006 was not submitted by September 1, 2006 [30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. 10779001 Sludge Provisions].</p> <p>3) Failure to submit the discharge monitoring reports ("DMR") parameter data for the flow daily maximum for the monitoring period ending October 31, 2005 and the 5-day biochemical oxygen demand daily average (mg/l) and the maximum single grab (mg/l) for the monitoring period ending February 28, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 10779001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$7,955</p> <p>Total Deferred: \$1,591 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$6,364</p> <p>Total Paid 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 has implemented the following corrective measures at the Facility:</p> <p>a. Installed a new flow control valve for chlorine and completed the electrical work for the valve in August 2006, to achieve compliance with all effluent limitations by January 2007; and</p> <p>b. On May 7, 2007 submitted the July 2006 sludge report and the missing parameter data for the October 2005 and February 2006 DMR.</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>

Attachment A
Docket Number: 2007-0564-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Morgan's Point

Payable Penalty Amount: Six Thousand Three Hundred Sixty-Four Dollars (\$6,364)

SEP Amount: Six Thousand Three Hundred Sixty-Four Dollars (\$6,364)

Type of SEP: Pre-approved

Third-Party Recipient: Armand Bayou Nature Center Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project

Location of SEP: Harris 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 pay for the labor and materials costs associated with conducting prescribed burns, removing non-native trees, and for planting native trees and plants.

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 increasing ecosystem functionality. It will contribute to the overall prairie health by suppressing invasive brush species, increasing soil fertility, and promoting plant vigor.

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:

Armand Bayou Nature Center
Attn: Mark Kramer
PO Box 58828
Houston, Texas 77258

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 November 17, 2006

TCEQ

DATES	Assigned	2-Apr-2007	Screening	11-Apr-2007	EPA Due	
	PCW	13-Apr-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Morgan's Point		
Reg. Ent. Ref. No.	RN102075801		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33185	No. of Violations	3	
Docket No.	2007-0564-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Deana Holland	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$4,300

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 105% Enhancement Subtotals 2, 3, & 7 \$4,515

Notes: A 105% enhancement is recommended for having 19 NOVs for self-reported effluent data violations, and two NOVs for same or similar violations within the last five years.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction Subtotal 5 \$430

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

Notes: The Respondent became compliant with permitted effluent limitations in January 2007, by repairing malfunctioning equipment. The Respondent submitted the July 2006 sludge report and the missing parameter data for the October 2005 and February 2006 discharge monitoring reports ("DMR") on May 7, 2007.

Total EB Amounts \$1,488 0% Enhancement* Subtotal 6 \$0
Approx. Cost of Compliance \$17,800 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$8,385

OTHER FACTORS AS JUSTICE MAY REQUIRE -5% Adjustment -\$430

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.

Final Penalty Amount \$7,955

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$7,955

DEFERRAL 20% Reduction Adjustment -\$1,591

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 \$6,364

Screening Date 11-Apr-2007

Docket No. 2007-0564-MWD-E

PCW

Respondent City of Morgan's Point

Policy Revision 2 (September 2002)

Case ID No. 33185

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102075801

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

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)	21	105%
	Other written NOVs	0	0%
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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 105%

>> 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 105% enhancement is recommended for having 19 NOVs for self-reported effluent data violations, and two NOVs for same or similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 105%

Screening Date 11-Apr-2007

Docket No. 2007-0564-MWD-E

PCW

Respondent City of Morgan's Point

Policy Revision 2 (September 2002)

Case ID No. 33185

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102075801

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a), TPDES Permit No. 10779001, Effluent Limitations and Monitoring Requirement No. 2

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on February 28, 2007. See attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

215 Number of violation days

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

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,484

Violation Final Penalty Total \$7,400

This violation Final Assessed Penalty (adjusted for limits) \$7,400

Economic Benefit Worksheet

Respondent City of Morgan's Point
Case ID No. 33185
Reg. Ent. Reference No. RN102075801
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	\$15,000	31-Oct-2005	31-Jan-2007	1.3	\$63	\$1,252	\$1,315
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,700	31-Oct-2005	31-Jan-2007	1.3	\$169	n/a	\$169
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of evaluating the causes of the effluent noncompliances is \$5,000 and implementing necessary rehabilitation work is \$10,000. Estimated costs of additional operator training and process control testing is based on \$100 per month. Date required is the beginning of the effluent noncompliances and the final date is the date of compliance.

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

\$17,700

TOTAL

\$1,484

Screening Date 11-Apr-2007
Respondent City of Morgan's Point
Case ID No. 33185

Docket No. 2007-0564-MWD-E

PCW

Policy Revision 2 (September 2002)
PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102075801
Media [Statute] Water Quality
Enf. Coordinator Deana Holland

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), TPDES Permit No. 10779001 Sludge Provisions.

Violation Description Failed to timely submit monitoring results at the intervals specified in the permit, as documented by TCEQ during a record review conducted on February 28, 2007. Specifically, the sludge report for the monitoring period ending July 31, 2006 was not submitted by September 1, 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1%"/>

Matrix Notes

30% of the rule requirement was not met.

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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is 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 Morgan's Point
Case ID No. 33185
Reg. Ent. Reference No. RN102075801
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
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)	\$50	1-Sep-2006	7-May-2007	0.7	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit the sludge report. Date required is the date the sludge reports were due and the final date is the date of compliance.

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

\$50

TOTAL

\$2

Screening Date 11-Apr-2007

Docket No. 2007-0564-MWD-E

PCW

Respondent City of Morgan's Point

Policy Revision 2 (September 2002)

Case ID No. 33185

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102075801

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. 10779001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit the discharge monitoring reports ("DMR") parameter data for the flow daily maximum for the monitoring period ending October 31, 2005 and the 5-day biochemical oxygen demand daily average (mg/l) and the maximum single grab (mg/l) for the monitoring period ending February 28, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 672 Number of violation days

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

Violation Base Penalty \$200

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$370

This violation Final Assessed Penalty (adjusted for limits) \$370

Economic Benefit Worksheet

Respondent City of Morgan's Point
Case ID No. 33185
Reg. Ent. Reference No. RN102075801
Media Water Quality
Violation No. 3

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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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	\$50	28-Feb-2006	7-May-2007	1.2	\$3	n/a	\$3
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost associated with providing the missing data. Date Required is the due date for the initial report missing data. Final Date is the date of compliance.

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

\$50

TOTAL

\$3

Effluent Violation Table
 City of Morgan's Point
 Table For Violation Number 1
 Docket No. 2007-0564-MWD-E

Monitoring Period End Date	Permitted Effluent Limits	
	FLOW Daily Maximum 20 MGD	Total Maximum Chlorine Residual 4.0 mg/L
10/31/2005	c	4.3
12/31/2005	c	4.8
1/31/2006	c	4.2
03/31/2006	c	4.6
4/30/2006	0.42	4.6
06/30/2006	c	4.3
07/31/2006	c	4.3

mg/L = Milligrams per liter	MGD = Million gallons per day	c = compliant
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Compliance History

Customer/Respondent/Owner-Operator:	CN600245518	City of Morgan's Point	Classification: AVERAGE	Rating: 0.59
Regulated Entity:	RN102075801	CITY OF MORGAN'S POINT	Classification: AVERAGE	Site Rating: 1.18
ID Number(s):	WASTEWATER	PERMIT		WQ0010779001
	WASTEWATER	PERMIT		TPDES0027260
	WASTEWATER	PERMIT		TX0027260
	WASTEWATER LICENSING	LICENSE		WQ0010779001
Location:	Located at the southwest corner of the intersection of Barbours Cut Boulevard and North Wilson Street in Harris County, Texas		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	April 23, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 23, 2002 to April 23, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Deana Holland</u>	Phone:	<u>239-2504</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? | <u>N/A</u> |
| 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	05/02/2002	(175371)
2	06/03/2002	(175375)
3	06/28/2002	(175378)
4	08/01/2002	(175381)
5	09/05/2002	(175384)
6	09/27/2002	(175387)
7	11/04/2002	(175388)
8	12/04/2002	(175394)
9	12/27/2002	(175398)
10	02/06/2003	(175402)
11	04/02/2003	(175367)
12	05/02/2003	(175372)
13	05/30/2003	(302720)
14	07/07/2003	(302722)
15	07/31/2003	(302725)
16	08/28/2003	(302727)
17	09/25/2003	(302729)
18	11/03/2003	(302731)
19	12/01/2003	(302733)
20	12/29/2003	(302734)
21	01/26/2004	(302735)

22	02/02/2004	(259016)
23	02/27/2004	(302715)
24	03/25/2004	(302718)
25	04/23/2004	(270121)
26	04/26/2004	(355011)
27	05/24/2004	(355012)
28	06/28/2004	(302723)
29	07/23/2004	(355013)
30	08/30/2004	(355014)
31	09/30/2004	(355015)
32	10/18/2004	(355016)
33	11/29/2004	(383484)
34	12/27/2004	(355017)
35	01/24/2005	(383482)
36	03/21/2005	(383483)
37	04/26/2005	(421342)
38	06/01/2005	(421343)
39	06/29/2005	(421344)
40	07/31/2005	(442323)
41	08/29/2005	(442324)
42	10/05/2005	(471285)
43	10/31/2005	(471286)
44	11/28/2005	(471287)
45	01/19/2006	(471288)
46	01/19/2006	(471289)
47	02/09/2006	(439999)
48	02/17/2006	(471283)
49	03/13/2006	(471284)
50	04/26/2006	(500021)
51	05/31/2006	(500022)
52	06/26/2006	(500023)
53	07/25/2006	(522124)
54	08/25/2006	(508891)
55	08/28/2006	(546784)
56	08/28/2006	(522123)
57	09/22/2006	(522122)
58	10/24/2006	(546785)
59	10/24/2006	(546786)
60	03/31/2007	(542432)

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

Date 04/30/2002 (175375)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

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

Date 05/31/2002 (175378)

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 10/31/2002 (175394)

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 05/31/2003 (302722)

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	(302729)		
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	02/02/2004	(259016)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TPDES Permit No. 10779-001			
Description:	Failure to comply with the two hour peak flow limit of 550 gpm (0.792 MGD).			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TPDES Permit No. 10779-001			
Description:	Failure to accurately measure all flows through the wastewater treatment			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TPDES Permit No. 10779-001			
Description:	Failure to provide noncompliance notification for two-hour peak flow			
Date	05/31/2004	(302723)		
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	06/30/2004	(355013)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2004	(355017)		
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	(383483)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/31/2005	(471285)		
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	(471287)		
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	(471289)		
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	(471283)		
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	02/08/2006	(439999)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to maintain compliance with the permitted effluent limits.			

Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Rqmt Prov: PERMIT 10779-001
 Description: Failure to initiate engineering and financial planning for the expansion and/or upgrading of the wastewater treatment plant (WWTP) and/or collection

Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)[G]
 Description: Failure to properly operate and maintain the Wastewater Treatment Plant (WWTP).

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 maintain the required sludge management records.

Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to ensure flow measurement accuracy.
 Date 03/31/2006 (500021)

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 (500022)

Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date 07/31/2006 (546784)

Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date 11/30/2006 (522123)

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 12/31/2006 (522124)

Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date 06/30/2006
 Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

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 MORGAN'S POINT
RN102075801

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0564-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 Morgan's Point ("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 plant located at the southwest corner of the intersection of Barbours Cut Boulevard and North Wilson Street in Harris County, Texas (the "Facility").
2. The City has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about March 28, 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 Seven Thousand Nine Hundred Fifty-Five Dollars (\$7,955) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Five Hundred Ninety-One Dollars (\$1,591) of the administrative penalty 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. Six Thousand Three Hundred Sixty-Four Dollars (\$6,364) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").
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 has implemented the following corrective measures at the Facility:
 - a. Installed a new flow control valve for chlorine and completed the electrical work for the valve in August 2006, to achieve compliance with all effluent limitations by January 2007; and
 - b. On May 7, 2007 submitted the July 2006 sludge report and the missing parameter data for the October 2005 and February 2006 discharge monitoring reports ("DMR").
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:

1. Failed to comply with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10779001, Effluent Limitations and Monitoring Requirement No. 2, as documented during a record review conducted on February 28, 2007, and as shown in the following table:

Effluent Violation Table TPDES Permit No. 10779001		
Monitoring Period End Date	Permitted Effluent Limits	
	FLOW Daily Maximum .20 MGD	Total Maximum Chlorine Residual 4.0 mg/L
10/31/2005	c	4.3
12/31/2005	c	4.8
1/31/2006	c	4.2
03/31/2006	c	4.6
4/30/2006	0.42	4.6
06/30/2006	c	4.3
07/31/2006	c	4.3

mg/L = Milligrams per liter	MGD = Million gallons per day	c = compliant
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2. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. 10779001 Sludge Provisions, as documented by during a record review conducted on February 28, 2007. Specifically, the sludge report for the monitoring period ending July 31, 2006 was not submitted by September 1, 2006.
3. Failed to submit the DMR parameter data for the flow daily maximum for the monitoring period ending October 31, 2005 and the 5-day biochemical oxygen demand daily average (mg/l) and the maximum single grab (mg/l) for the monitoring period ending February 28, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. 10779001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on February 28, 2007.

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 Morgan's Point, Docket No. 2007-0564-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, Six Thousand Three Hundred Sixty-Four Dollars (\$6,364) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolter
For the Executive Director

11/13/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Peggy Arisco
Signature

6/28/07
Date

Peggy Arisco
Name (Printed or typed)
Authorized Representative of
City of Morgan's Point

Mayor
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.

Section 1

Text describing the first section of the document, including various details and information.

Text describing the second section of the document, including various details and information.

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Attachment A
Docket Number: 2007-0564-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Morgan's Point

Payable Penalty Amount: Six Thousand Three Hundred Sixty-Four Dollars (\$6,364)

SEP Amount: Six Thousand Three Hundred Sixty-Four Dollars (\$6,364)

Type of SEP: Pre-approved

Third-Party Recipient: Armand Bayou Nature Center Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project

Location of SEP: Harris 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 pay for the labor and materials costs associated with conducting prescribed burns, removing non-native trees, and for planting native trees and plants.

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 increasing ecosystem functionality. It will contribute to the overall prairie health by suppressing invasive brush species, increasing soil fertility, and promoting plant vigor.

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.

City of Morgan's Point
Agreed Order – Attachment A

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:

Armand Bayou Nature Center
Attn: Mark Kramer
PO Box 58828
Houston, Texas 77258

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.

