

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0665-MWD-E **TCEQ ID:** RN102935541 **CASE NO.:** 33314

RESPONDENT NAME: Fayette County

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: West Point WWTP, 3,300 feet north of the intersection of Highway 71 and Loop 543 at the Union Pacific crossing at Criswell Creek, Fayette County</p> <p>TYPE OF OPERATION: Domestic 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 October 22, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-0321; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Edward F. Janecka, Fayette County Judge, 151 North Washington Street, La Grange, Texas 78945 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: March 20, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 12, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. Two violations were documented.</p> <p>WATER</p> <p>1) Failed to comply with permit effluent limits [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014401001 Effluent Limitations, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failed to submit discharge monitoring reports at the intervals specified in the permit. Specifically, Fayette County failed to submit the sludge report for the monitoring period ending July 31, 2006 [TPDES Permit No. WQ0014401001 Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17)].</p>	<p>Total Assessed: \$2,469</p> <p>Total Deferred: \$493 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,976</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the Sludge Report for the monitoring period ending July 31, 2006; and</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 0014401001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0014401001, TPDES 0125491

Attachment A
Docket Number: 2007-0665-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Fayette County
Penalty Amount: One Thousand Nine Hundred Seventy-Six Dollars [\$1,976]
SEP Offset Amount: One Thousand Nine Hundred Seventy-Six Dollars [\$1,976]
Type of SEP: Custom (with a Pre-Approved Concept)
Location of SEP: Fayette County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the 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

The Respondent shall hold a one-day county wide used tire collection and recycling event in which used tires may be dropped off at a designated location by citizens at no cost to the public. The Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a no-cost option to dispose of tires; and
- is advertised in a newspaper of large circulation in the geographic area.

The Respondent shall utilize a contractor to haul and properly dispose of or recycle the collected tires. SEP monies will be used for the disposal costs and for public announcement of the event. The 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.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of used tires that can leach chemicals into the soil and water, as well as help rid the community of the dangers and health threats associated with mosquitoes that can carry West Nile virus. The cleanup will also help prevent release of harmful chemicals into the atmosphere from potential tire fires.

C. Minimum Expenditure

The 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. The Respondent understands that this SEP may cost more than the Offset Amount to complete.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The 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, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. If the project is completed on or before 90 days of the effective date of the Agreed Order, the Respondent may submit a Final Report in lieu of a Progress Report.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a Final 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 collected;
5. A copy of manifests showing proper disposal or recycling of the collected tires;
6. Map showing specific location of the collection location;
7. Photographs of the project; and
8. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The 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

The 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. The 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 the 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.

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

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

6. 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.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the 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 a SEP for the 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 (September 2002)

11

TCEQ

DATES	Assigned	11-Apr-2007	Screening	26-Apr-2007	EPA Due	
	PCW	1-May-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Fayette County
Reg. Ent. Ref. No.	RN102935541
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33314	No. of Violations	2	
Docket No.	2007-0665-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Harvey Wilson	
Multi-Media		EC's Team	EnforcementTeam 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Subtotals 2, 3, & 7 \$3,900

Notes: A 130% enhancement is recommended for having 26 NOVs for self-reported effluent violations.

Culpability Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Subtotal 5 \$0

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

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts Subtotal 6 \$0
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$6,900

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment -\$4,431

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

Notes: Recommend reduction of the penalty amount due to the very small amount of contaminants (residual chlorine) released as a result of the violation and so that the self-reported violations do not overly impact the penalty.

Final Penalty Amount \$2,469

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$2,469

DEFERRAL Adjustment -\$493

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 \$1,976

Screening Date 26-Apr-2007

Docket No. 2007-0665-MWD-E

PCW

Respondent Fayette County

Policy Revision 2 (September 2002)

Case ID No. 33314

11

Reg. Ent. Reference No. RN102935541

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History *Sife* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	26	130%
	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%
<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) 130%

>> 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 130% enhancement is recommended for having 26 NOVs for self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 130%

Screening Date 26-Apr-2007

Docket No. 2007-0665-MWD-E

PCW

Respondent Fayette County

Policy Revision 2 (September 2002)

Case ID No. 33314

11

Reg. Ent. Reference No. RN102935541

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) TPDES Permit No. WQ0014401001 Effluent Limitations, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total Suspended Solids, Flow, and Chlorine Residual were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

365 Number of violation days

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

Violation Base Penalty \$2,000

Two semiannual events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$499

Violation Final Penalty Total \$1,646

This violation Final Assessed Penalty (adjusted for limits) \$1,646

Economic Benefit Worksheet

Respondent Fayette County
Case ID No. 33314
Reg. Ent. Reference No. RN102935541
Media Water Quality
Violation No. 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
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)	\$5,000	1-Jan-2006	31-Dec-2007	2.0	\$499	n/a	\$499

Notes for DELAYED costs
 The estimated cost of additional oversight and sampling which may have alleviated or prevented the noncompliance. Date Required is the date of the first non-compliance. Final Date is the estimated compliance date.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$499
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Screening Date 26-Apr-2007

Docket No. 2007-0665-MWD-E

PCW

Respondent Fayette County

Policy Revision 2 (September 2002)

Case ID No. 33314

11

Reg. Ent. Reference No. RN102935541

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0014401001 Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description Failed to submit discharge monitoring reports at the intervals specified in the permit. Specifically, the Respondent failed to submit the sludge report for the monitoring period ending July 31, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			X		
	100% of the rule requirement was not met.				

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 214

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

Violation Base Penalty \$1,000

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$823

This violation Final Assessed Penalty (adjusted for limits) \$823

Economic Benefit Worksheet

Respondent Fayette County
Case ID No. 33314
Reg. Ent. Reference No. RN102935541
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$100	1-Sep-2006	31-Dec-2007	1.3	\$7	n/a	\$7
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of filing the necessary annual sludge report. The Date Required is the date the report was due. The Final Date is the estimated 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

\$100

TOTAL

\$7

Fayette County
Docket No. 2007-0665-MWD-E
Effluent Violations Table for Violation No. 1

Month/Year	Biochemical Oxygen Demand Daily Average max 20 mg/l	Biochemical Oxygen Demand Single-grab max 65 mg/l	Total Suspended Solids Daily Average max 20 mg/l	Total Suspended Solids Single-grab max 65 mg/l	Total Chlorine Residual min 1.0 mg/l	Total Chlorine Residual max 4.0 mg/l
December, 2005	C	C	C	C	0.56	6.70
January, 2006	C	C	C	C	0.21	7.40
February, 2006	C	C	C	C	0.49	C
March, 2006	28.5	75	58.75	188	0.54	C
April, 2006	C	C	C	C	0.53	6.30
May, 2006	C	C	C	C	0.49	5.60
June, 2006	C	C	C	C	0.46	6.70
July, 2006	C	C	C	C	0.98	8.10
August, 2006	C	C	C	C	0.90	7.30
September, 2006	C	C	C	C	0.61	7.03
October, 2006	C	C	C	C	0.50	7.40
November, 2006	31.25	C	C	C	0.29	C

mg/L=milligrams per liter
C=compliant

Compliance History

Customer/Respondent/Owner-Operator:	CN600341283 Fayette County	Classification: AVERAGE	Rating: 2.86
Regulated Entity:	RN102935541 WEST POINT WWTP	Classification: AVERAGE	Site Rating: 1.84
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER	PERMIT PERMIT PERMIT	WQ0014401001 TPDES0125491 TX0125491
Location:	LOCATED APPROXIMATELY 3300 FEET NORTH OF THE INTERSECTION OF STATE HIGHWAY 71 AND STATE LOOP 543 AT THE CROSSING OF THE UNION PACIFIC EAST-WEST RAILROAD TRACT OVER CRISWELL CREEK IN FAYETTE COUNTY, TEXAS		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	April 24, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 24, 2002 to April 24, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Harvey Wilson</u>	Phone:	<u>239-0321</u>

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? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|----|------------|----------|
| 1 | 08/06/2004 | (430787) |
| 2 | 08/16/2004 | (368244) |
| 3 | 08/16/2004 | (368245) |
| 4 | 08/16/2004 | (368246) |
| 5 | 08/16/2004 | (368247) |
| 6 | 08/16/2004 | (368249) |
| 7 | 08/18/2004 | (368243) |
| 8 | 10/20/2004 | (368248) |
| 9 | 10/20/2004 | (368250) |
| 10 | 10/20/2004 | (368251) |
| 11 | 06/20/2005 | (430781) |
| 12 | 06/20/2005 | (430782) |
| 13 | 06/22/2005 | (430788) |
| 14 | 06/22/2005 | (430789) |
| 15 | 06/22/2005 | (430790) |
| 16 | 06/22/2005 | (430783) |
| 17 | 06/22/2005 | (430784) |
| 18 | 06/22/2005 | (430785) |

19 06/22/2005 (430786)
 20 08/25/2005 (448184)
 21 10/05/2005 (493792)
 22 10/20/2005 (493793)
 23 11/22/2005 (493794)
 24 12/21/2005 (493795)
 25 01/24/2006 (493796)
 26 02/22/2006 (493790)
 27 03/27/2006 (493791)
 28 04/24/2006 (506967)
 29 05/23/2006 (506968)
 30 06/22/2006 (506969)
 31 07/21/2006 (529108)
 32 08/30/2006 (529109)
 33 09/22/2006 (529110)
 34 04/17/2007 (554383)

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

Date:	07/31/2004	(368248)		
Self Report?	YES		Classification	Moderat
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:	08/31/2004	(368250)		
Self Report?	YES		Classification	Moderat
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:	10/31/2004	(430788)		
Self Report?	YES		Classification	Moderat
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	(430789)		
Self Report?	YES		Classification	Moderat
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:	12/31/2004	(430790)		
Self Report?	YES		Classification	Moderat
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:	01/31/2005	(430781)		
Self Report?	YES		Classification	Moderat
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	(430782)		
Self Report?	YES		Classification	Moderat
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2005	(430783)		
Self Report?	YES		Classification	Moderat
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:	04/30/2005	(430784)		
Self Report?	YES		Classification	Moderat
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:	05/30/2005	(430785)		
Self Report?	YES		Classification	Moderat

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2005 (493793)		
Self Report?	YES	Classification	Moderat
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 (493794)		
Self Report?	YES	Classification	Moderat
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:	11/30/2005 (493795)		
Self Report?	YES	Classification	Moderat
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 (493796)		
Self Report?	YES	Classification	Moderat
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 (493790)		
Self Report?	YES	Classification	Moderat
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2006 (493791)		
Self Report?	YES	Classification	Moderat
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2006 (506967)		
Self Report?	YES	Classification	Moderat
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 (506968)		
Self Report?	YES	Classification	Moderat
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/31/2006 (506969)		
Self Report?	YES	Classification	Moderat
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 (529108)		
Self Report?	YES	Classification	Moderat
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 (529109)		
Self Report?	YES	Classification	Moderat
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2006 (529110)		
Self Report?	YES	Classification	Moderat
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:	09/30/2006		
Self Report?	YES	Classification:	Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26.121(a)(G)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2006
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26.121(a)(G)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2006
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26.121(a)(G)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2006
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 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
FAYETTE COUNTY
RN102935541

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0665-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 Fayette County under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Fayette County appear before the Commission and together stipulate that:

1. Fayette County owns and operates a domestic wastewater treatment plant located 3,300 feet north of the intersection of Highway 71 and Loop 543 at the Union Pacific crossing at Criswell Creek in Fayette County, Texas (the "Facility").
2. Fayette County has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Fayette County agree that the Commission has jurisdiction to enter this Agreed Order, and that Fayette County is subject to the Commission's jurisdiction.
4. Fayette County received notice of the violations alleged in Section II ("Allegations") on or about April 17, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Fayette County of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Four Hundred Sixty-Nine Dollars (\$2,469) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Hundred Ninety-Three Dollars (\$493) of the administrative penalty is deferred contingent upon Fayette County'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

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 Fayette County in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Fayette County, or three days after the date on which the Commission mails notice of the Order to Fayette County, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

- b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014401001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

4. The provisions of this Agreed Order shall apply to and be binding upon Fayette County. Fayette County 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 Fayette County 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, Fayette County's failure to comply is not a violation of this Agreed Order. Fayette County shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Fayette County shall notify the Executive Director within seven days after Fayette County 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 Fayette County shall be made in writing to the Executive Director. Extensions are not effective until Fayette County

2. Failed to submit discharge monitoring reports at the intervals specified in the permit. Specifically, Fayette County failed to submit the sludge report for the monitoring period ending July 31, 2006, in violation of TPDES Permit No. WQ0014401001 Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17), as documented during a record review conducted on March 20, 2007.

III. DENIALS

Fayette County generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Fayette County pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Fayette County'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: Fayette County, Docket No. 2007-0665-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. Fayette County shall implement and complete a Supplement Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Nine Hundred Seventy Six Dollars shall be offset with the condition that Fayette County implement the SEP defined in Attachment A, incorporated herein by reference. Fayette County's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that Fayette County shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit the Sludge Report for the monitoring period ending July 31, 2006, in accordance with the requirements of TPDES Permit No. WQ0014401001. The report shall be submitted to:

Compliance Monitoring Team (MC 224)
Enforcement Division
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3097

this Agreed Order. If Fayette County fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Fayette County to pay all or part of the deferred penalty. One Thousand Nine Hundred Seventy-Six Dollars (\$1,976) shall be conditionally offset by Fayette County's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Fayette County 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 Fayette County 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

As owner and operator of the Facility, Fayette County is alleged to have:

1. Failed to comply with permit effluent limits, in violation of TPDES Permit No. WQ0014401001 Effluent Limitations, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 20, 2007, as indicated in the table below.

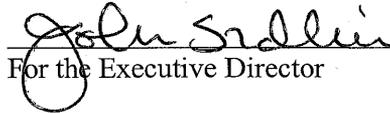
Effluent Violations Table

Month/Year	Biochemical Oxygen Demand Daily Average max 20 mg/l	Biochemical Oxygen Demand Single-grab max 65 mg/l	Total Suspended Solids Daily Average max 20 mg/l	Total Suspended Solids Single-grab max 65 mg/l	Total Chlorine Residual min 1.0 mg/l	Total Chlorine Residual max 4.0 mg/l
December, 2005	C	C	C	C	0.56	6.70
January, 2006	C	C	C	C	0.21	7.40
February, 2006	C	C	C	C	0.49	C
March, 2006	28.5	75	58.75	188	0.54	C
April, 2006	C	C	C	C	0.53	6.30
May, 2006	C	C	C	C	0.49	5.60
June, 2006	C	C	C	C	0.46	6.70
July, 2006	C	C	C	C	0.98	8.10
August, 2006	C	C	C	C	0.90	7.30
September, 2006	C	C	C	C	0.61	7.03
October, 2006	C	C	C	C	0.50	7.40
November, 2006	31.25	C	C	C	0.29	C
mg/L=milligrams per liter						
C=compliant						

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/27/2007

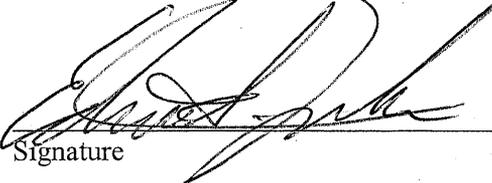
Date

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.



Signature

August 10, 2007

Date

Edward F. Janecka

Name (Printed or typed)
Authorized Representative of
Fayette County

Fayette County Judge

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.

MEMORANDUM

TO: [Name]

DATE: [Date]

BY: [Signature]

1. [Faint text paragraph]

2. [Faint text paragraph]

3. [Faint text paragraph]

4. [Faint text paragraph]

5. [Faint text paragraph]

6. [Faint text paragraph]

Attachment A

Docket Number: 2007-0665-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Fayette County
Penalty Amount:	One Thousand Nine Hundred Seventy-Six Dollars [\$1,976]
SEP Offset Amount:	One Thousand Nine Hundred Seventy-Six Dollars [\$1,976]
Type of SEP:	Custom (with a Pre-Approved Concept)
Location of SEP:	Fayette County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the 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

The Respondent shall hold a one-day county wide used tire collection and recycling event in which used tires may be dropped off at a designated location by citizens at no cost to the public. The Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a no-cost option to dispose of tires; and
- is advertised in a newspaper of large circulation in the geographic area.

The Respondent shall utilize a contractor to haul and properly dispose of or recycle the collected tires. SEP monies will be used for the disposal costs and for public announcement of the event. The 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.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of used tires that can leach chemicals into the soil and water, as well as help rid the community of the dangers and health threats associated with mosquitoes that can carry West Nile virus. The cleanup will also help prevent release of harmful chemicals into the atmosphere from potential tire fires.

C. Minimum Expenditure

The 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. The Respondent understands that this SEP may cost more than the Offset Amount to complete.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The 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, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. If the project is completed on or before 90 days of the effective date of the Agreed Order, the Respondent may submit a Final Report in lieu of a Progress Report.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a Final 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 collected;
5. A copy of manifests showing proper disposal or recycling of the collected tires;
6. Map showing specific location of the collection location;
7. Photographs of the project; and
8. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The 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

The 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. The 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 the 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.

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

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

6. 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.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the 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 a SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

