

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-0833-MWD-E **TCEQ ID:** RN102184678 **CASE NO.:** 33652
RESPONDENT NAME: City of Rogers

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 Rogers Wastewater Treatment Plant, located south of the City of Rogers, immediately west of Farm-to-Market Road 437 and approximately three-quarters of a mile south of the intersection of United States Highway 190 and Farm-to-Market Road 437, Bell 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 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: Ms. Deana Holland, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2504; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Thomas Maddux, Mayor, City of Rogers, P.O. Box 250, Rogers, Texas 76569 Ms. Jennifer Wheeler, City Secretary, City of Rogers, P.O. Box 250, Rogers, Texas 76569 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: April 2, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 14, 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 the permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010804001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failed to 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) and TPDES Permit No. WQ0010804001 Sludge Provisions].</p>	<p>Total Assessed: \$12,600</p> <p>Total Deferred: \$2,520 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$10,080</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 15 days after the effective date of this Agreed Order, submit the annual sludge report for the monitoring period of July 31, 2006;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.;</p> <p>c. Within 90 days after the effective date of this Agreed Order, conduct an engineering evaluation of the wastewater treatment plant to assess the causes and necessary corrective actions to restore the Facility to a fully functional and operational system and to achieve compliance with the effluent limits of TPDES Permit No. WQ0010804001. The evaluation shall be prepared by a Texas registered professional engineer;</p> <p>d. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.;</p> <p>e. Within 180 days after the effective date of this Agreed Order, complete a plan and schedule for the completion of necessary corrective actions to fully rehabilitate the Facility based on the engineering evaluation. This schedule should allow for completing of all repairs within 630 days of the effective date of this Agreed Order. The City shall provide a copy of the plan and schedule;</p>

		<p>f. Within 630 days after the effective date of this Agreed Order, complete all necessary corrective actions to fully rehabilitate the Facility based on the engineering plan and schedule referenced in Ordering Provision No. 2.e. of this section; and</p> <p>g. Within 720 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010804001. This certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>
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Additional ID No(s): WQ0010804001

Attachment A
Docket Number: 2007-0833-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Rogers
Penalty Amount: Ten Thousand Eighty Dollars (\$10,080)
SEP Offset Amount: Ten Thousand Eighty Dollars (\$10,080)
Type of SEP: Custom with Pre-approved Concept
Location of SEP: Bell 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 establish and conduct an annual 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 agrees to hold a minimum of three annual events within a three year period after the effective date of this Agreed Order. To conduct the event, the Respondent shall purchase equipment to demount and cut tires, and shall use a licensed hauler to remove and dispose of or recycle the tires. The Respondent shall ensure that the event:

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

SEP monies will be used for disposal costs, equipment, city labor at an overtime rate to conduct the event, 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 receive no credit for volunteer labor or labor by employees during normal work hours. 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

The improper disposal of scrap tires is a significant environmental problem. In addition to creating blight conditions, tires accumulate stagnant water and become a breeding ground for mosquitoes. Mosquitoes are potential vectors for disease, including West Nile Virus. Additionally, used tires present a significant fire hazard. Tire fires burn very hot and are extremely difficult to extinguish. The tires often melt into an oily

substance in the extreme heat of a fire and can cause a harmful run-off when combined with the water used to put out the fire.

This SEP will provide a discernible environmental benefit by providing citizens a no cost option to dispose of used tires. The acquisition of the tire cutter will help eliminate illegal dumping of tires on public and private properties.

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 event. The Respondent shall complete the first annual event within one year of the effective date of this Agreed Order. The Respondent shall conduct a minimum of three annual events within three years of the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 60 days after completion of the first two annual events, the Respondent shall submit a progress report to the TCEQ indicating the environmental benefit (number of tires collected and final disposition of the tires) for respective event.

B. Final Report

Within 90 days after completion of the final 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 for any amount due, the docket number of this Agreed Order and a note that it is for reimbursement of a 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)

PCW Revision November 17, 2006

TCEQ

DATES	Assigned	21-May-2007	Screening	8-Jun-2007	EPA Due	
	PCW	9-Jun-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Rogers		
Reg. Ent. Ref. No.	RN102184678		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33652	No. of Violations	2
Docket No.	2007-0833-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

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

225% Enhancement

Notes

A 225% enhancement is recommended for having 38 months of self reported effluent data violations, three NOVs with same or similar violations, and one Agreed Order within the last five years.

Culpability

No

0% Enhancement

Subtotal 4

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts	\$504
Approx. Cost of Compliance	\$5,050

0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6

SUM OF SUBTOTALS 1-7

Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE

-3%

Adjustment

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

Notes

Recommended reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

DEFERRAL

20%

Reduction

Adjustment

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 8-Jun-2007

Docket No. 2007-0833-MWD-E

PCW

Respondent City of Rogers

Policy Revision 2 (September 2002)

Case ID No. 33652

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102184678

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)	41	205%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 225%

>> 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 225% enhancement is recommended for having 38 months of self reported effluent data violations, three NOVs with same or similar violations, and one Agreed Order within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 225%

Screening Date 8-Jun-2007

Docket No. 2007-0833-MWD-E

PCW

Respondent City of Rogers

Policy Revision 2 (September 2002)

Case ID No. 33652

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102184678

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a), TPDES Permit No. WQ0010804001, Effluent Limitations and Monitoring Requirements No.1

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on April 2, 2007. See attached effluent violation table.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
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 type="text"/>	<input type="text" value="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. 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

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Rogers
Case ID No. 33652
Reg. Ent. Reference No. RN102184678
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	One-time 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-Mar-2006	1-Mar-2008	2.0	\$501	n/a	\$501

Notes for DELAYED costs

Estimated costs of evaluating the causes of the effluent noncompliances is \$5,000. Date required is the beginning of the effluent noncompliances and the final date is the projected 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

\$5,000

TOTAL

\$501

Screening Date 8-Jun-2007

Docket No. 2007-0833-MWD-E

PCW

Respondent City of Rogers

Policy Revision 2 (September 2002)

Case ID No. 33652

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102184678

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), TPDES Permit No. WQ0010804001 Sludge Provisions.

Violation Description

Failed to submit monitoring results at the intervals specified in the permit, as documented by TCEQ during a record review conducted on April 2, 2007. Specifically, the sludge report for the monitoring period ending July 31, 2006 was not submitted by September 1, 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 280

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 \$4

Violation Final Penalty Total \$3,150

This violation Final Assessed Penalty (adjusted for limits) \$3,150

Economic Benefit Worksheet

Respondent City of Rogers
Case ID No. 33652
Reg. Ent. Reference No. RN102184678
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	1-Mar-2008	1.5	\$4	n/a	\$4

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 projected 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

\$4

Effluent Violation Table City of Rogers TPDES Permit No. WQ0010804001 Docket No. 2007-0833-MWD-E	
Monitoring Period End Date	Permitted Effluent Limits
	BOD Daily Average Concentration 30 mg/L
03/31/2006	48.0
04/30/2006	39.5
09/30/2006	34.0
11/30/2006	45.2
12/31/2006	63.5
01/31/2007	33.4
02/28/2007	35.0

Mg/L=milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator:	CN600340731	City of Rogers	Classification: AVERAGE	Rating: 4.30
Regulated Entity:	RN102184678	CITY OF ROGERS	Classification: AVERAGE	Site Rating: 4.30
ID Number(s):	WASTEWATER	PERMIT		WQ0010804001
	WASTEWATER	PERMIT		TPDES0027103
	WASTEWATER	PERMIT		TX0027103
	SLUDGE	REGISTRATION		22654
	WATER QUALITY NON PERMITTED	ID NUMBER		090100504
	WASTEWATER LICENSING	LICENSE		WQ0010804001
Location:	located south of the City of Rogers, immediately west of Farm-to-Market Road 437 and approximately three-quarters of a mile south of the intersection of United State Highway 190 and Farm-to-Market 437 in Bell County, Texas			Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	June 03, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 03, 2002 to June 03, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Deana Holland	Phone:	239-2504	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 01/26/2006 ADMINORDER 2005-0605-MWD-E
 Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT
 Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review. Specifically, failed to submit required sludge reports for 8/1/2003 - 7/31/2004 reporting period.

Classification: Moderate

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

Rqmt Prov: 10804001 PERMIT
 Description: Failed to report the pH maximum results at Outfall 001A on the Discharge Monitoring Report for the month of August 2004.

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	06/03/2002	(175039)
2	07/01/2002	(175041)
3	09/09/2002	(175043)
4	09/27/2002	(175045)
5	09/27/2002	(175047)
6	02/03/2003	(175049)
7	02/03/2003	(175051)
8	02/03/2003	(175053)
9	02/03/2003	(175055)
10	07/01/2003	(302550)
11	07/01/2003	(302552)
12	07/01/2003	(302554)
13	07/01/2003	(302555)
14	10/07/2003	(302556)
15	10/07/2003	(302557)
16	10/07/2003	(302558)
17	10/07/2003	(302559)
18	12/19/2003	(302560)
19	12/19/2003	(302561)
20	12/19/2003	(302562)
21	02/03/2004	(302563)
22	03/12/2004	(302551)
23	03/31/2004	(302553)
24	04/29/2004	(354948)
25	06/01/2004	(354949)
26	07/01/2004	(354950)
27	08/04/2004	(354951)
28	08/26/2004	(354952)
29	09/28/2004	(383441)
30	11/10/2004	(383442)
31	12/06/2004	(383443)
32	12/27/2004	(383444)
33	01/31/2005	(383445)
34	02/16/2005	(348911)
35	04/08/2005	(442273)
36	04/28/2005	(442274)
37	05/25/2005	(442275)
38	07/06/2005	(442276)
39	08/03/2005	(442277)
40	08/19/2005	(442278)
41	10/13/2005	(471225)
42	10/25/2005	(471226)
43	12/15/2005	(471227)
44	01/05/2006	(471228)
45	02/10/2006	(471229)
46	03/08/2006	(471224)
47	04/27/2006	(437143)
48	05/02/2006	(499975)
49	06/01/2006	(499976)
50	06/22/2006	(499977)
51	07/24/2006	(485456)
52	07/31/2006	(522082)
53	08/30/2006	(522083)
54	09/28/2006	(522084)
55	12/22/2006	(546737)

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

Date	06/30/2002	(175043)		
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	07/31/2002	(175045)		
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	08/31/2002	(175047)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	09/30/2002	(175049)		
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	12/31/2002	(175055)		
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	01/31/2003	(302550)		
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	02/28/2003	(302552)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2003	(302554)		
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	11/30/2003	(302562)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2004	(302551)		
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	02/29/2004	(302553)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2004	(354948)		
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	04/30/2004 (354949)		
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	05/31/2004 (354950)		
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 (354951)		
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	07/31/2004 (354952)		
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	08/31/2004 (383441)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/24/2004 (285679)		
Self Report?	NO	Classification	Minor
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Operational Requirements No. 1, Pg. 9		
Description:	Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission		
Date	09/30/2004 (383442)		
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	10/31/2004 (383443)		
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 (383444)		
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 (442273)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2005 (442274)		
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	04/30/2005 (442275)		
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 05/31/2005 (442276)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2005 (442277)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
Date 07/31/2005 (442278)
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 (471225)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
Date 09/30/2005 (471226)
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 11/30/2005 (471228)
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 (471229)
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 (471224)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2006 (499975)
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: 04/28/2006 (437143)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010804-001

Description: Failure to dispose of sludge in accordance with required method.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.2[G]
Rqmt Prov: PERMIT WQ0010804-001

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Excessive grease was noted at the Sunrise Addition and Cemetery lift stations.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(b)(4)
Rqmt Prov: PERMIT WQ0010804-001

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. No covers on receptacle and screenings on the ground.

Self Report? NO Classification: Minor

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

Rqmt Prov: PERMIT WQ0010804-001

Description: Failure by the permittee to ensure automatic flow measuring devices are accurately calibrated.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.7(e)

Description: Failure to secure a facility, area, or site.

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: PERMIT WQ0010804-001

Description: Failure by the permittee to prevent the discharge of sludge to the receiving waters.

Date: 04/30/2006 (499976)

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: 07/21/2006 (485456)

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: PERMIT WQ0010804-001

Description: Failure by the permittee to prevent the discharge of sludge to the receiving waters.

Date: 11/30/2006 (546737)

Self Report? YES Classification: Moderate

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

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

Date: 09/30/2006

Self Report? YES Classification: Moderate

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

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

Date: 12/31/2006

Self Report? YES Classification: Moderate

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

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

Date: 01/31/2007

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: 02/28/2007

Self Report? YES Classification: Moderate

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

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ROGERS
RN102184678

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0833-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 Rogers ("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 south of the City of Rogers, immediately west of Farm-to-Market Road 437 and approximately three-quarters of a mile south of the intersection of United States Highway 190 and Farm-to-Market 437 in Bell 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 May 19, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twelve Thousand Six Hundred Dollars (\$12,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Five Hundred Twenty Dollars (\$2,520) 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. Ten Thousand Eighty Dollars (\$10,080) 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 may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010804001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on April 2, 2007, and as shown in the following table:

Effluent Violation Table City of Rogers TPDES Permit No. WQ0010804001 Docket No. 2007-0833-MWD-E	
Monitoring Period End Date	Permitted Effluent Limits
	BOD Daily Average Concentration 30 mg/L
03/31/2006	48.0
04/30/2006	39.5
09/30/2006	34.0
11/30/2006	45.2
12/31/2006	63.5
01/31/2007	33.4
02/28/2007	35.0

Mg/L=milligrams per liter

2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010804001 Sludge Provisions, as documented by TCEQ during a record review conducted on April 2, 2007. Specifically, the sludge report for the monitoring period ending July 31, 2006 was not submitted by September 1, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rogers, Docket No. 2007-0833-MWD-E" to:

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

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Ten Thousand Eighty Dollars (\$10,080) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of the Agreed Order, submit the annual sludge report for the monitoring period of July 31, 2006 to:

Manager, Compliance Monitoring Section
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance as described below in Ordering Provision 3.h., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.
 - c. Within 90 days after the effective date of this Agreed Order, conduct an engineering evaluation of the wastewater treatment plant to assess the causes and necessary corrective actions to restore the Facility to a fully functional and operational system and to achieve compliance with the effluent limits of TPDES Permit No. WQ0010804001. The evaluation shall be prepared by a Texas registered professional engineer.
 - d. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance as described below in Ordering Provision 3.h., and include detailed

supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c.

- e. Within 180 days after the effective date of this Agreed Order, complete a plan and schedule for the completion of necessary corrective actions to fully rehabilitate the Facility based on the engineering evaluation. This schedule should allow for completing all repairs within 630 days of the effective date of this Agreed Order. The City shall provide a copy of the plan and schedule to the address listed in Ordering Provision 3.h. of this section.
- f. Within 630 days after the effective date of this Agreed Order, complete all necessary corrective actions to fully rehabilitate the Facility based on the engineering plan and schedule referenced in Ordering Provision No. 3.e. of this section.
- g. Within 720 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010804001. This certification shall be submitted to the address listed in Ordering Provision No. 3.h. This certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.
- h. All certifications shall 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

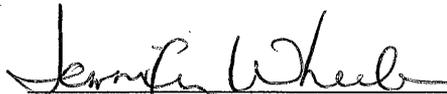
10/27/2007
Date

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

8 Aug 07
Date

Jennifer Wheeler
Name (Printed or typed)
Authorized Representative of
City of Rogers

City Secretary
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.

Handwritten text at the top of the page, possibly a header or title, which is mostly illegible due to fading.

Main body of handwritten text, consisting of several lines of cursive script. The text is very faint and difficult to decipher.

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Attachment A
Docket Number: 2007-0833-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Rogers
Penalty Amount: Ten Thousand Eighty Dollars (\$10,080)
SEP Offset Amount: Ten Thousand Eighty Dollars (\$10,080)
Type of SEP: Custom with Pre-approved Concept
Location of SEP: Bell 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 establish and conduct an annual 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 agrees to hold a minimum of three annual events within a three year period after the effective date of this Agreed Order. To conduct the event, the Respondent shall purchase equipment to demount and cut tires, and shall use a licensed hauler to remove and dispose of or recycle the tires. The Respondent shall ensure that the event:

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

SEP monies will be used for disposal costs, equipment, city labor at an overtime rate to conduct the event, 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 receive no credit for volunteer labor or labor by employees during normal work hours. 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

The improper disposal of scrap tires is a significant environmental problem. In addition to creating blight conditions, tires accumulate stagnant water and become a breeding ground for mosquitoes. Mosquitoes are potential vectors for disease, including West Nile Virus. Additionally, used tires present a significant fire hazard. Tire fires burn very hot and are extremely difficult to extinguish. The tires often melt into an oily

substance in the extreme heat of a fire and can cause a harmful run-off when combined with the water used to put out the fire.

This SEP will provide a discernible environmental benefit by providing citizens a no cost option to dispose of used tires. The acquisition of the tire cutter will help eliminate illegal dumping of tires on public and private properties.

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 event. The Respondent shall complete the first annual event within one year of the effective date of this Agreed Order. The Respondent shall conduct a minimum of three annual events within three years of the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 60 days after completion of the first two annual events, the Respondent shall submit a progress report to the TCEQ indicating the environmental benefit (number of tires collected and final disposition of the tires) for respective event.

B. Final Report

Within 90 days after completion of the final 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 for any amount due, the docket number of this Agreed Order and a note that it is for reimbursement of a 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.

