

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0520-MWD-E **TCEQ ID:** RN101918076 **CASE NO.:** 33117

RESPONDENT NAME: City of Mexia

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 Mexia Wastewater Treatment Facility, approximately 0.5 mile south of the intersection of Travis Street and Bonham Street and approximately 1.25 miles southeast of the intersection of State Highway 14 and Farm-to-Market Road 39, Mexia, Limestone County</p> <p>TYPE OF OPERATION: Wastewater treatment</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 29, 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. John Shelton, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2563; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Steve Brewer, Mayor, City of Mexia, P.O. Box 207, Mexia, Texas 76667 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 13, 2006</p> <p>Date of NOV/NOE Relating to this Case: February 26, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Four violations were documented.</p> <p>WATER</p> <p>1) Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2005 [30 TEX. ADMIN. CODE § 305.125(17), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010222001, Sludge Provisions].</p> <p>2) Failed to at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions. Specifically, influent bar screenings were being disposed of in an uncovered dumpster and process control testing revealed exceedances of recommended ranges [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(b)(4), and TPDES Permit No. WQ0010222001, Operational Requirements No. 1].</p> <p>3) Failed to calibrate the thermometer in the storage refrigerator against a National Institute of Standards and Technology certified thermometer on an annual basis [30 TEX. ADMIN. CODE § 319.11(e) and TPDES Permit No. WQ0010222001, Monitoring and Reporting Requirements No. 2].</p> <p>4) Failed to have controlled access to three lift stations. Specifically, the Hinchcliff,</p>	<p>Total Assessed: \$26,688</p> <p>Total Deferred: \$5,337 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$21,351</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <p>a. On December 15, 2006, submitted the delinquent sludge report for the monitoring period ending July 31, 2005;</p> <p>b. On March 20, 2007, purchased and began using a dumpster with a lid and an alternative polymer, and increased wasting of solids; and</p> <p>c. On March 20, 2007, purchased and began using a National Institute of Standards and Technology certified thermometer.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p> <p>3) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, construct intruder-resistant fencing at the Hinchcliff, Forest Glade and Sewer Plant lift stations; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.</p>

Forest Glade, and Sewer Plant lift stations were not protected by intruder-resistant fences [30 TEX. ADMIN. CODE § 317.3(a) and TPDES Permit No. WQ0010222001, Operational Requirements No. 1].		
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Additional ID No(s): Wastewater Permit WQ0010222001, Wastewater Permit TPDES0052990, Wastewater Permit TX0052990, Wastewater Licensing WQ0010222001

Attachment A
Docket Number: 2007-0520-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Mexia
Penalty Amount: Twenty-One Thousand Three Hundred Fifty-One Dollars (\$21,351)
SEP Offset Amount: Twenty-One Thousand Three Hundred Fifty-One Dollars (\$21,351)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Limestone 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 repair or replace failing, broken, or inadequately designed private sewer lines, access units, and clean-outs for approximately 20 low to moderate income residents in Limestone County. The failure of some of the existing lines has resulted in overflows of untreated sewage to the environment, causing unsanitary conditions and environmental concerns. The Respondent shall provide this service at no cost to the residents. 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 use its own labor only on weekends or after-hours and will be reimbursed at an overtime rate. If the Respondent uses contract labor, it will be reimbursed at a regular hourly rate. 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 preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

PHILOSOPHY 101: INTRODUCTION TO PHILOSOPHY
Lecture 1: The Philosophy of Language

Today we will explore the philosophy of language, focusing on the nature of meaning and the relationship between language and reality.

One central question in the philosophy of language is the nature of meaning. What does it mean to say something? How is meaning related to the world?

We will begin by examining the work of Gottlob Frege, who distinguished between sense and reference.

Frege's distinction between sense and reference is crucial for understanding how language can refer to the same object in different ways.

Next, we will look at the work of Ludwig Wittgenstein, who argued that the meaning of a word is its use in a particular language.

- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

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 completion of the SEP may cost more than the offset amount.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent will begin implementation of this SEP. The Respondent shall complete the project within one year after the effective date of this 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.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of homes where the lines were repaired or replaced;
5. Map showing specific location of home sites;
6. Before and after photographs of the project; and
7. 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 may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance of the SEP, the Respondent shall include with the payment 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 an 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 March 19, 2007

DATES	Assigned	26-Feb-2007	Screening	12-Mar-2007	EPA Due	
	PCW	31-Mar-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Mexia		
Reg. Ent. Ref. No.	RN101918076		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	33117	No. of Violations	4
Docket No.	2007-0520-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Laurie Eaves
Multi-Media		EC's Team	Enforcement Team 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

Notes: The Respondent self-reported 27 months of effluent quality violations, was issued one Agreed Order with denial of liability language, and was issued three NOVs for same or similar violations and four for nonsimilar violations.

Culpability Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

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

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 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 12-Mar-2007

Docket No. 2007-0520-MWD-E

PCW

Respondent City of Mexia

Policy Revision 2 (September 2002)

Case ID No. 33117

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101918076

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

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)	30	150%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
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) 178%

>> 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

The Respondent self-reported 27 months of effluent quality violations, was issued one Agreed Order with denial of liability language, and was issued three NOVs for same or similar violations and four for nonsimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 178%

Screening Date 12-Mar-2007

Docket No. 2007-0520-MWD-E

PCW

Respondent City of Mexia

Policy Revision 2 (September 2002)

Case ID No. 33117

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101918076

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. WQ0010222001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2005, as documented during an investigation conducted on December 13, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

Less than 30% of the requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 470

daily	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty \$100

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$278

This violation Final Assessed Penalty (adjusted for limits) \$278

Economic Benefit Worksheet

Respondent City of Mexia
Case ID No. 33117
Reg. Ent. Reference No. RN101918076
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	1-Sep-2006	15-Dec-2006	1.3	\$16	n/a	\$16
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost associated with annual sludge sampling/reporting. Date Required is the date the reporting requirement started. Final Date is the date the reports were submitted.

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

\$250

TOTAL

\$16

Screening Date 12-Mar-2007

Docket No. 2007-0520-MWD-E

PCW

Respondent City of Mexia

Policy Revision 2 (September 2002)

Case ID No. 33117

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101918076

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(5) and 317.4(b)(4), and TPDES Permit No. WQ0010222001, Operational Requirements No. 1

Violation Description

Failed to at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions. Specifically, influent bar screenings were being disposed of in an uncovered dumpster and process control testing revealed exceedances of recommended ranges, as documented during an investigation conducted on December 13, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

97 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended based upon the investigation date of December 13, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$2,780

This violation Final Assessed Penalty (adjusted for limits) \$2,780

Economic Benefit Worksheet

Respondent City of Mexia
 Case ID No. 33117
 Reg. Ent. Reference No. RN101918076
 Media Water Quality
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Overtime 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)	\$500	13-Dec-2006	20-Mar-2007	0.3	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost associated with purchasing a dumpster with a lid, purchase of an alternative polymer and increased wasting of solids. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$7

Screening Date 12-Mar-2007

Docket No. 2007-0520-MWD-E

PCW

Respondent City of Mexia

Policy Revision 2 (September 2002)

Case ID No. 33117

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101918076

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 319.11(e) and TPDES Permit No. WQ0010222001, Monitoring and Reporting Requirements No. 2

Violation Description Failed to calibrate the thermometer in the storage refrigerator against a National Institute of Standards and Technology certified thermometer on an annual basis.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels as the result of not ensuring sample integrity.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 97 Number of violation days

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 \$2,780

This violation Final Assessed Penalty (adjusted for limits) \$2,780

Economic Benefit Worksheet

Respondent: City of Mexia
Case ID No.: 33117
Reg. Ent. Reference No.: RN101918076
Media: Water Quality
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	13-Dec-2006	20-Mar-2007	0.3	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to purchase a National Institute of Standards and Technology certified thermometer. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$7

Screening Date 12-Mar-2007

Docket No. 2007-0520-MWD-E

PCW

Respondent City of Mexia

Policy Revision 2 (September 2002)

Case ID No. 33117

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101918076

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 317.3(a) and TPDES Permit No. WQ0010222001, Operational Requirements No. 1

Violation Description Failed to have controlled access to three lift stations. Specifically, the Hinchcliff, Forest Glade, and Sewer Plant lift stations were not protected by intruder-resistant fences, as documented by an investigation conducted on December 13, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed protective levels as the result of uncontrolled access.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

89 Number of violation days

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

Violation Base Penalty \$7,500

Three quarterly events are recommended from the investigation date of December 13, 2006 through the screening date of March 12, 2006 (one for each liftstation).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$560

Violation Final Penalty Total \$20,850

This violation Final Assessed Penalty (adjusted for limits) \$20,850

Economic Benefit Worksheet

Respondent City of Mexia
Case ID No. 33117
Reg. Ent. Reference No. RN101918076
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	13-Dec-2006	1-Oct-2007	0.8	\$27	\$533	\$560
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for constructing fences around each lift station. Date Required is the investigation date. Final Date is the anticipated 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

\$10,000

TOTAL:

\$560

Compliance History

Customer/Respondent/Owner-Operator: CN600510218 City of Mexia Classification: AVERAGE Rating: 2.13
Regulated Entity: RN101918076 CITY OF MEXIA Classification: AVERAGE Site Rating: 2.51
ID Number(s): WASTEWATER PERMIT WQ0010222001
WASTEWATER PERMIT TPDES0052990
WASTEWATER PERMIT TX0052990
WASTEWATER LICENSING LICENSE WQ0010222001
Location: Approximately 0.5 mile south of the intersection of Travis Street and Bonham Street and
approximately 1.25 miles southeast of the intersection of State Highway 14 and Farm-to-Market Road 39
in Mexia, Limestone County
Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region: REGION 09 – WACO
Date Compliance History Prepared: March 13, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 13, 2002 to March 13, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Laurie Eaves Phone: 512/239-4495

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: 04/13/2003 ADMINORDER 2002-0405-MWD-E
Classification: Moderate
Citation: TWC Chapter 26 26.121
Rqmt Prov: 2a PERMIT
2b PERMIT
Description: Failure to meet the permitted effluent limits.

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 03/18/2002 (184286)
2 04/23/2002 (184291)
3 05/28/2002 (184280)
4 05/28/2002 (184295)
5 06/25/2002 (184299)
6 07/25/2002 (184303)
7 08/26/2002 (184306)
8 09/20/2002 (184309)
9 10/25/2002 (184312)
10 11/22/2002 (184315)
11 12/30/2002 (184318)
12 01/27/2003 (184321)
13 02/24/2003 (184284)
14 03/20/2003 (184287)
15 04/16/2003 (25208)
16 04/29/2003 (184292)
17 05/23/2003 (184296)

18 07/02/2003 (184300)
19 07/28/2003 (306495)
20 11/18/2003 (332921)
21 12/17/2003 (306497)
22 01/04/2004 (282919)
23 01/06/2004 (306496)
24 01/06/2004 (306498)
25 01/06/2004 (306499)
26 03/05/2004 (306490)
27 03/05/2004 (306500)
28 03/05/2004 (306501)
29 03/24/2004 (306491)
30 04/26/2004 (306492)
31 04/30/2004 (268073)
32 05/21/2004 (306493)
33 06/25/2004 (306494)
34 07/15/2004 (278286)
35 09/22/2004 (356522)
36 09/30/2004 (371033)
37 10/25/2004 (356523)
38 10/27/2004 (356520)
39 10/28/2004 (356521)
40 11/22/2004 (356524)
41 12/20/2004 (384318)
42 01/24/2005 (384319)
43 02/18/2005 (384316)
44 02/18/2005 (384317)
45 03/16/2005 (472885)
46 03/18/2005 (422253)
47 04/22/2005 (422254)
48 05/19/2005 (422255)
49 05/19/2005 (422257)
50 06/22/2005 (422256)
51 08/18/2005 (443173)
52 08/30/2005 (403437)
53 09/22/2005 (443174)
54 10/25/2005 (472886)
55 12/21/2005 (472887)
56 12/21/2005 (472888)
57 01/25/2006 (472889)
58 02/22/2006 (472884)
59 03/10/2006 (454775)
60 04/21/2006 (501212)
61 04/21/2006 (501215)
62 05/24/2006 (501213)
63 06/22/2006 (501214)
64 08/21/2006 (523446)
65 11/16/2006 (519370)
66 12/14/2006 (531340)
67 02/21/2007 (540255)

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

Date: 03/31/2002 (184291)
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: 04/30/2002 (184295)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2002 (184299)
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: 06/30/2002 (184303)
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 (184306)
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 (184309)
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 (184312)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2002 (184315)
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: 11/30/2002 (184318)
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 (184321)
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 (184284)
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 (184287)
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 (184292)
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: 04/30/2003 (184296)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2003 (306495)
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: 07/31/2003 (306496)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2003 (306497)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (306498)
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: 10/31/2003 (306499)
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: 11/18/2003 (332921)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 11/19/2003 (254938)
Self Report? NO Classification: Major
Citation: 2A TWC Chapter 7, SubChapter A 7.101
Rqmt Prov: ORDER IV.3
Description: Failure to submit written certification of compliance with effluent limits as required by Administrative Order (Docket No. 2002-0405-MWD-E).

Date: 11/30/2003 (306500)
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: 12/31/2003 (306501)
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: 04/09/2004 (268390)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
TWC Chapter 26 26.121(a)(1)
Rqmt Prov: PERMIT WQ0010222001
Description: Failure to prevent the unauthorized discharge of wastewater from a lift station onto the surface of the ground.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT WQ0010222001
Description: Failure to operate and maintain the wastewater treatment facilities as to prevent an unauthorized discharge of wastewater.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)
Rqmt Prov: PERMIT WQ0010222001
Description: Failure to provide proper notification of unauthorized discharges as required.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.3(a)
Description: Failure to provide secured access to the lift station at 1107 Clark Street, Mexia, Texas.

Date: 08/04/2004 (291067)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
Rqmt Prov: PERMIT WQ0010222-001
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 (371033)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 11/15/2004 (291067)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Rqmt Prov: PERMIT WQ0010222-001
Description: Failure by the permittee to notify the TCEQ of an unauthorized discharge within 24 hours of becoming aware of a noncompliance.

Date: 11/30/2004 (384318)
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: 12/31/2004 (384319)
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: 01/31/2005 (384317)
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 (422253)
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: 08/24/2005 (403437)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to properly close an abandoned clarifier.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to properly preserve the sample media in the wastewater plant's composite sampler.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.1[G]
Description: Failure to maintain the collection system's liftstations throughout the city.

Date: 10/31/2005 (472887)
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 (472888)
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 THE
CITY OF MEXIA
RN101918076**

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

AGREED ORDER DOCKET NO. 2007-0520-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 Mexia ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately 0.5 mile south of the intersection of Travis Street and Bonham Street and approximately 1.25 miles southeast of the intersection of State Highway 14 and Farm-to-Market Road 39 in Mexia, Limestone County, Texas (the "Facility").
2. The City has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about March 3, 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 Twenty-Six Thousand Six Hundred Eighty-Eight Dollars (\$26,688) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Five Thousand Three Hundred Thirty-Seven Dollars (\$5,337) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order and Twenty-One Thousand Three Hundred Fifty-One Dollars (\$21,351) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has implemented the following corrective measures:
 - a. On December 15, 2006, submitted the delinquent sludge report for the monitoring period ending July 31, 2005;
 - b. On March 20, 2007, purchased and began using a dumpster with a lid and an alternative polymer, and increased wasting of solids; and
 - c. On March 20, 2007, purchased and began using a National Institute of Standards and Technology certified thermometer.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2005, in violation of 30 TEX. ADMIN. CODE § 305.125(17), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010222001, Sludge Provisions, as documented during an investigation conducted on December 13, 2006.

2. Failed to at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(b)(4), and TPDES Permit No. WQ0010222001, Operational Requirements No. 1, as documented during an investigation conducted on December 13, 2006. Specifically, influent bar screenings were being disposed of in an uncovered dumpster and process control testing revealed exceedances of recommended ranges.
3. Failed to calibrate the thermometer in the storage refrigerator against a National Institute of Standards and Technology certified thermometer on an annual basis, in violation of 30 TEX. ADMIN. CODE § 319.11(e) and TPDES Permit No. WQ0010222001, Monitoring and Reporting Requirements No. 2, as documented during an investigation conducted on December 13, 2006.
4. Failed to have controlled access to three lift stations, in violation of 30 TEX. ADMIN. CODE § 317.3(a) and TPDES Permit No. WQ0010222001, Operational Requirements No. 1, as documented by an investigation conducted on December 13, 2006. Specifically, the Hinchcliff, Forest Glade, and Sewer Plant lift stations were not protected by intruder-resistant fences.

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 Mexia, Docket No. 2007-0520-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Twenty-One Thousand Three Hundred Fifty-One Dollars (\$21,351) 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 30 days after the effective date of this Agreed Order, construct intruder-resistant fencing at the Hinchcliff, Forest Glade and Sewer Plant lift stations; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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 Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szalai

For the Executive Director

12/7/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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]

Signature

8-29-07

Date

Steve Brewer

Name (Printed or typed)
Authorized Representative of the
City of Mexia

MAYOR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-0520-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Mexia
Penalty Amount: Twenty-One Thousand Three Hundred Fifty-One Dollars (\$21,351)
SEP Offset Amount: Twenty-One Thousand Three Hundred Fifty-One Dollars (\$21,351)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Limestone 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 repair or replace failing, broken, or inadequately designed private sewer lines, access units, and clean-outs for approximately 20 low to moderate income residents in Limestone County. The failure of some of the existing lines has resulted in overflows of untreated sewage to the environment, causing unsanitary conditions and environmental concerns. The Respondent shall provide this service at no cost to the residents. 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 use its own labor only on weekends or after-hours and will be reimbursed at an overtime rate. If the Respondent uses contract labor, it will be reimbursed at a regular hourly rate. 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 preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.

- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

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 completion of the SEP may cost more than the offset amount.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent will begin implementation of this SEP. The Respondent shall complete the project within one year after the effective date of this 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.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of homes where the lines were repaired or replaced;
5. Map showing specific location of home sites;
6. Before and after photographs of the project; and
7. 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 may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance of the SEP, the Respondent shall include with the payment 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 an SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

