

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0557-MWD-E **TCEQ ID:** RN101920684 **CASE NO.:** 35664

RESPONDENT NAME: City of Bishop

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 Bishop Wastewater Treatment Facility, located approximately 1.25 miles south of the intersection of U. S. Highway 77 and 6th Street, west of U. S. Highway 77 and adjacent to Carreta Creek, Nueces, County</p> <p>TYPE OF OPERATION: Municipal wastewater treatment system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 8, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Victor Ramos, Mayor, City of Bishop, P. O. Box 356, Bishop, Texas 78343 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 2008 SEP 22 AM 11:33
 CHIEF CLERKS OFFICE

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 Record Review Relating to this Case: February 6, 2008</p> <p>Date of NOE Relating to this Case: March 4, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with its permitted effluent limits for daily average flow, five-day carbonaceous biochemical oxygen demand, and ammonia-nitrogen [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010427001, Final Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)(1)].</p> <p>2) Failure to submit the annual sludge report for the period ending July 31, 2007 by September 1, 2007 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010427001, Sludge Provisions].</p>	<p>Total Assessed: \$6,000</p> <p>Total Deferred: \$1,200 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$4,800</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has initiated plans to install screens or other measures to prevent turtles and other aquatic animals from clogging up the Facility's piping in the treatment ponds.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, submit the 2007 annual sludge report for the Facility;</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a.; and</p> <p>c) Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010427001.</p> <p>d) The written certification required by Ordering Provision Nos. 2.b and 2.c. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TPDES Permit No. WQ0010427001

Attachment A
Docket Number: 2008-0557-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Bishop (“the City”)
Penalty Amount:	Four Thousand Eight Hundred Dollars (\$4,800)
SEP Offset Amount:	Four Thousand Eight Hundred Dollars (\$4,800)
Type of SEP:	Custom – Cleanup of Illegal Dumpsites
Location of SEP:	Nueces County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the City 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 City shall perform a cleanup of an unauthorized dumpsite on at least two properties in Nueces County and shall utilize recycling of recyclable materials where possible. Eligible sites will be those where a responsible party cannot be found or is unable to clean the site and where reasonable efforts have been made to prevent the dumping. The City shall post signs or implement other measures in an effort to prevent future occurrences of illegal dumping.

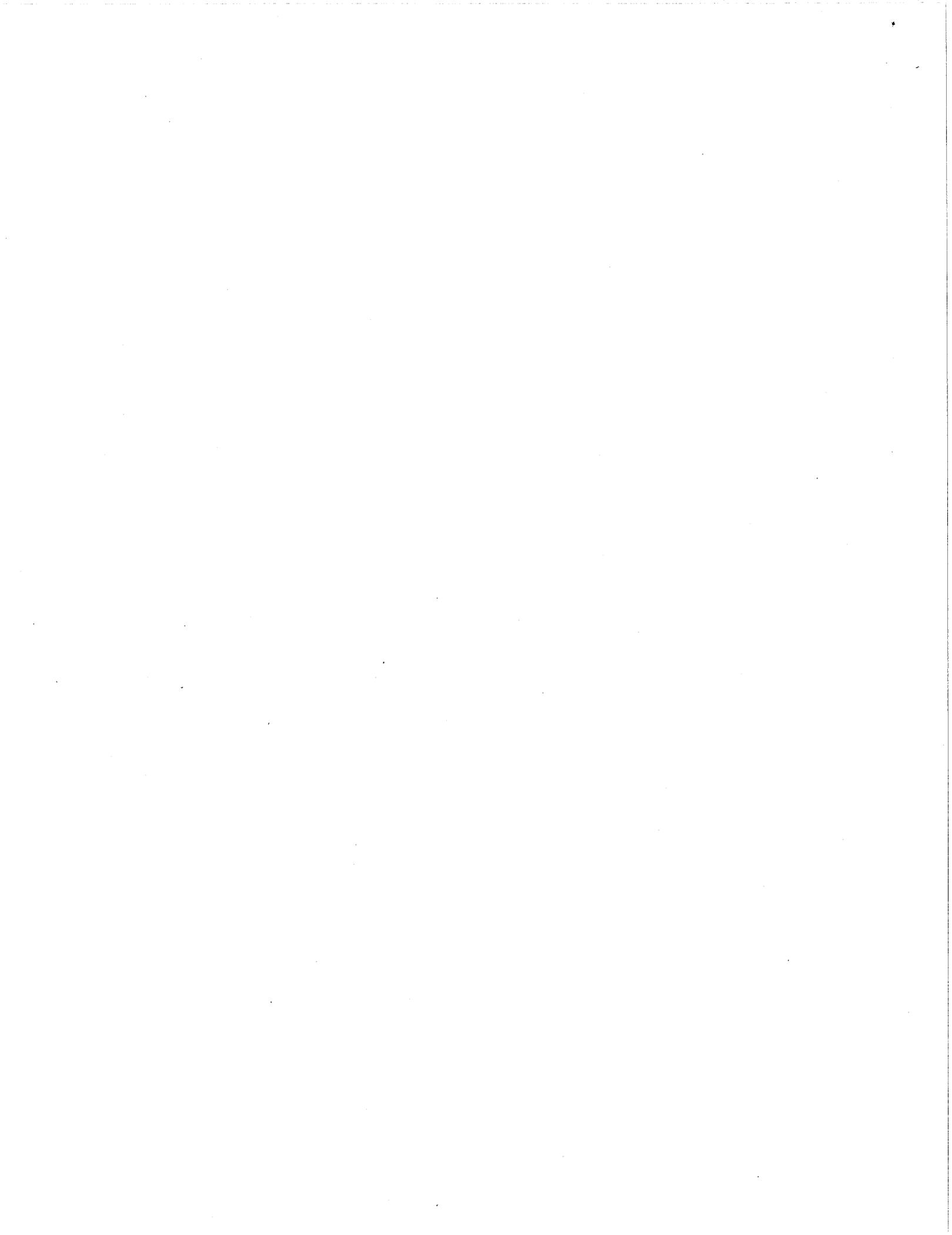
The City shall use contract labor to perform the project or shall only receive credit for its employee labor to the extent that it is used on an overtime basis and can be documented. The City will not receive credit for gratuities or inducements for volunteers. The City shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The City shall perform this project in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should the material catch fire.

C. Minimum Expenditure



The City 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 City understands that it may cost more than the required SEP Offset Amount to complete this project.

2. Performance Schedule

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

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the City 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. The City shall submit progress reports in 90-day increments thereafter until completion of the project.

B. Final Report

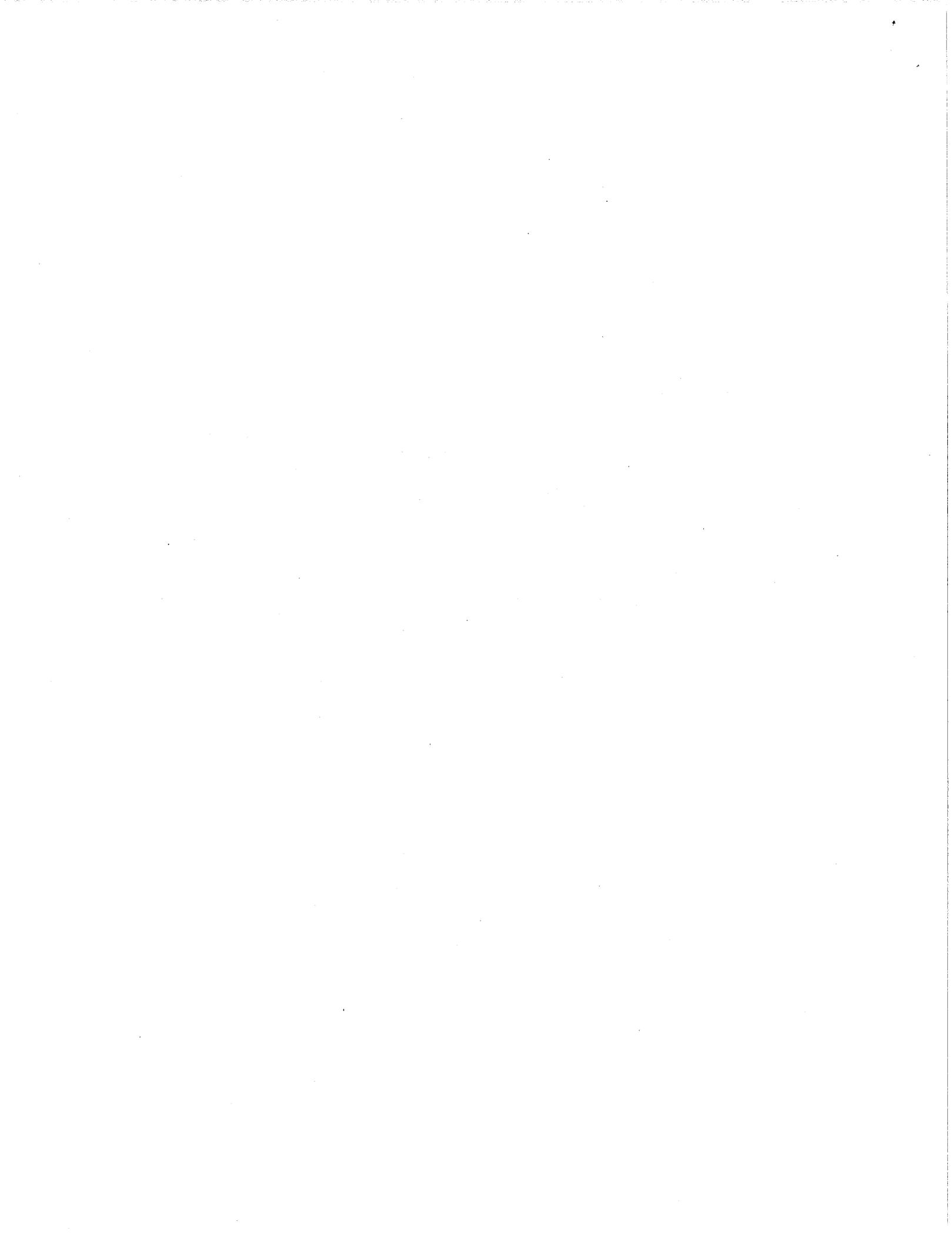
Within 90 days after completion of the project, the City shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. Manifests showing proper transport and disposal or recycling of materials;
3. The quantity of materials collected such as number of tires, gallons of paint, etc;
4. Before and after photographs of the project;
5. A statement of quantifiable environmental benefits; and
6. Any additional information the City believes will demonstrate compliance with this Attachment A.

C. Address

The City 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 City 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 City 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 City 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 Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the City shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The City shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

6. Publicity

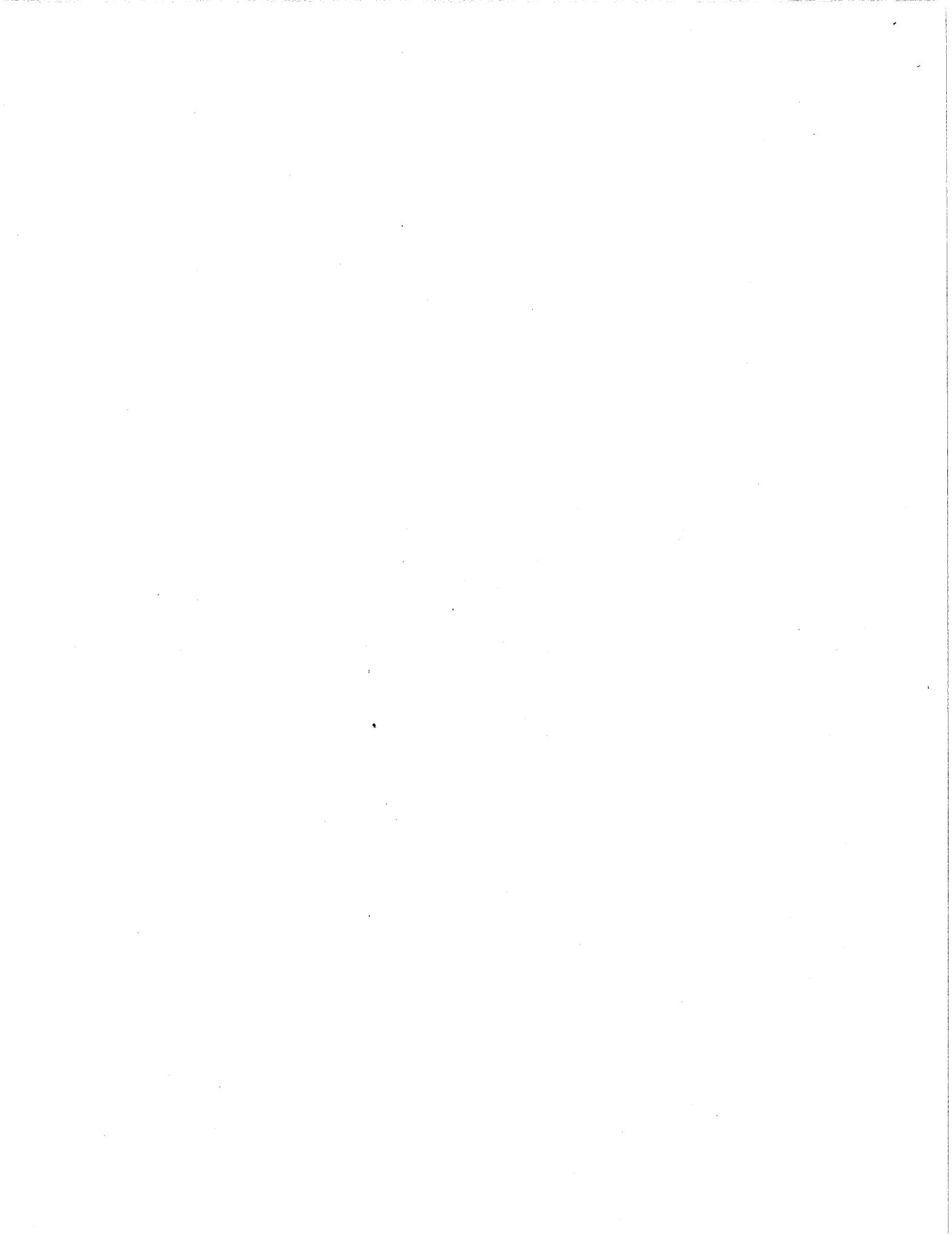
Any public statements concerning this SEP made by or on behalf of the City must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The City shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the City 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 City 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 February 29, 2008

DATES	Assigned	10-Mar-2008	Screening	3-Apr-2008	EPA Due	29-Jan-2008
	PCW	15-Apr-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Bishop		
Reg. Ent. Ref. No.	RN101920684		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35664	No. of Violations	2
Docket No.	2008-0557-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell
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	\$4,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	50% Enhancement	Subtotals 2, 3, & 7	\$2,000
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Notes: The Respondent has one NOV for same or similar violations and nine months of self-reported effluent violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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

	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$501
Approx. Cost of Compliance	\$5,050

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$6,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,000
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DEFERRAL	20% Reduction	Adjustment	-\$1,200
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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	\$4,800
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Screening Date 3-Apr-2008

Docket No. 2008-0557-MWD-E

PCW

Respondent City of Bishop

Policy Revision 2 (September 2002)

Case ID No. 35664

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101920684

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

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)	10	50%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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) 50%

>> 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 has one NOV for same or similar violations and nine months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

Screening Date	3-Apr-2008	Docket No.	2008-0557-MWD-E	PCW
Respondent	City of Bishop	Policy Revision 2 (September 2002)		
Case ID No.	35664	PCW Revision February 29, 2008		
Reg. Ent. Reference No.	RN101920684			
Media [Statute]	Water Quality			
Enf. Coordinator	Pamela Campbell			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010427001, Final Effluent Limitations and Monitoring Requirements No. 1			
Violation Description	Failed to comply with its permitted effluent limits as shown in the attached table.			

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			x
Potential				Percent <input type="text" value="10%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent <input type="text" value="0%"/>

Matrix Notes
 A simplified model was utilized to evaluate the values of carbonaceous biochemical oxygen demand ("CBOD₅"), ammonia, and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment.

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	x
	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 Bishop
Case ID No. 35664
Reg. Ent. Reference No. RN101920684
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	1-Apr-2007	1-Sep-2008	1.4	\$24	\$474	\$498
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to evaluate the treatment units and determine the causes for the Facility's noncompliance. The date required is the date the noncompliance began and the 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 \$5,000

TOTAL \$498

Screening Date	3-Apr-2008	Docket No.	2008-0557-MWD-E	PCW
Respondent	City of Bishop	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	35664	<i>PCW Revision February 29, 2008</i>		
Reg. Ent. Reference No.	RN101920684			
Media [Statute]	Water Quality			
Enf. Coordinator	Pamela Campbell			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010427001, Sludge Provisions			
Violation Description	Failed to submit the annual sludge report for the period ending July 31, 2007 by September 1, 2007.			

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
				<input type="text" value="10%"/>

Matrix Notes

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

Violation Base Penalty

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 Bishop
Case ID No. 35664
Reg. Ent. Reference No. RN101920684
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	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	1-Sep-2007	1-Sep-2008	1.0	\$0	\$3	\$4
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to prepare and submit the annual sludge report. The date required is the date the 2007 sludge report was due and the 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

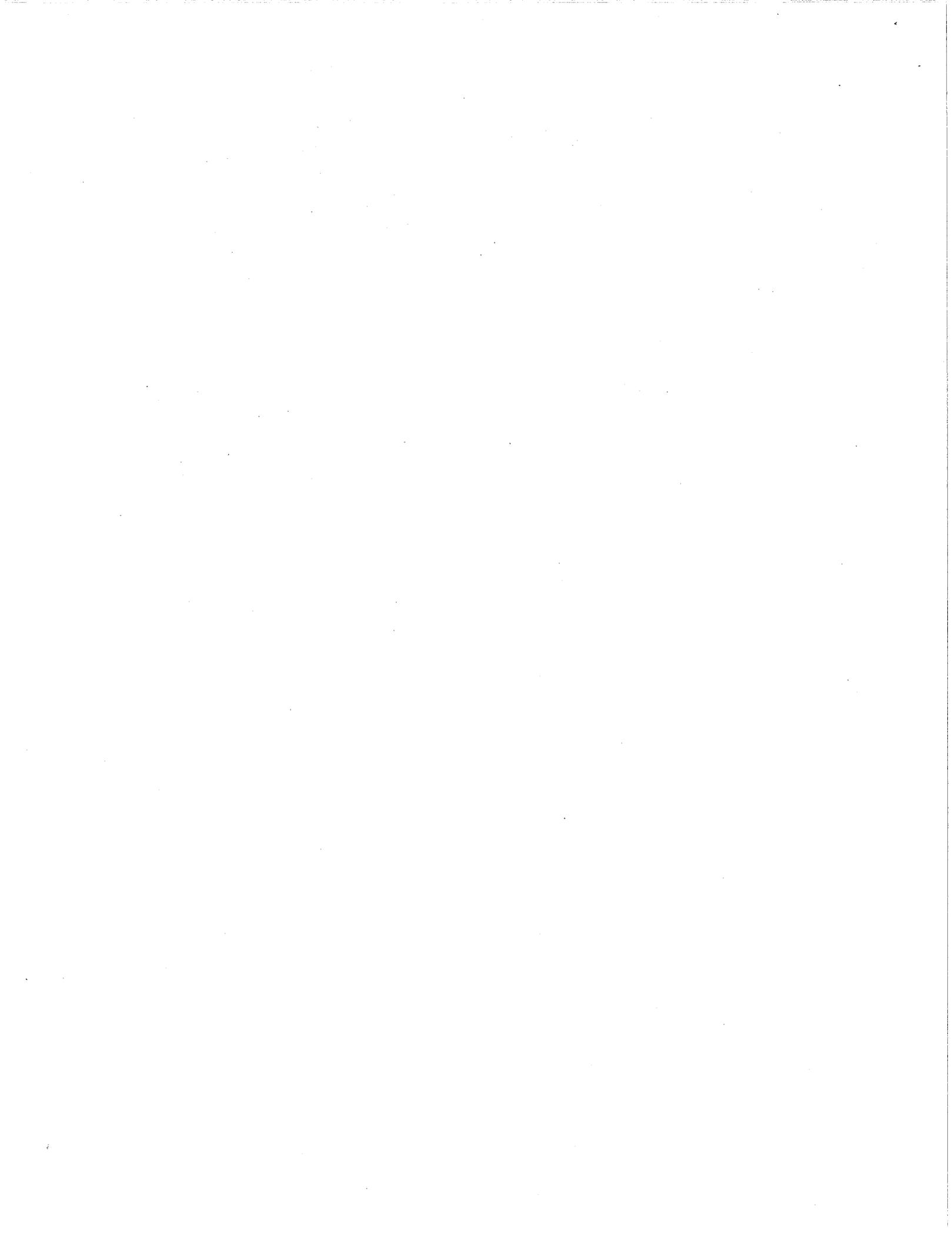
Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$4



Compliance History

Customer/Respondent/Owner-Operator:
Regulated Entity:
ID Number(s):

CN600248157 City of Bishop
RN101920684 CITY OF BISHOP
WASTEWATER PERMIT
WASTEWATER PERMIT
WASTEWATER PERMIT
WASTEWATER LICENSING LICENSE
LOCATED APPR. 1.25 MILES SOUTH OF THE INTER
SECTION OF US HWY 77 AND 6TH STREET, WEST
OF US HWY 77 AND ADJACENT TO CARRETA
CREEK, NUECES CO., TX
REGION 14 - CORPUS CHRISTI
April 01, 2008
Enforcement
April 01, 2003 to April 01, 2008
Regarding this Compliance History
Name: Pamela Campbell Phone: 512 239-4493

Classification: AVERAGE Rating: 1.58
Classification: AVERAGE Site Rating: 0.16
WQ0010427001
TPDES0023019
TX0023019
WQ0010427001
Rating Date: 9/1/2007 Repeat Violator: NO

Location:

TCEQ Region:

Date Compliance History Prepared:

Agency Decision Requiring Compliance History:

Compliance Period:

TCEQ Staff Member to Contact for Additional Information

Name: Pamela Campbell Phone: 512 239-4493

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | 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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/22/2003	(298958)
2	05/23/2003	(298960)
3	06/13/2003	(298961)
4	07/17/2003	(298962)
5	08/14/2003	(298963)
6	09/15/2003	(298964)
7	10/23/2003	(298965)
8	11/24/2003	(298967)
9	12/18/2003	(298968)
10	01/12/2004	(298969)
11	02/11/2004	(298956)
12	03/11/2004	(298957)
13	03/24/2004	(265034)
14	04/15/2004	(298959)
15	05/17/2004	(353563)
16	06/14/2004	(353564)
17	07/12/2004	(353566)
19	09/16/2004	(353567)
20	10/25/2004	(353568)
21	11/10/2004	(382681)
22	12/10/2004	(382682)
23	01/18/2005	(382683)
24	02/10/2005	(420482)
25	03/16/2005	(349366)
26	03/18/2005	(420483)
27	04/22/2005	(420484)
28	05/20/2005	(420485)
29	06/09/2005	(420486)
30	07/15/2005	(441529)
31	08/19/2005	(441530)
32	09/12/2005	(441531)
33	10/27/2005	(469828)
34	11/21/2005	(469829)
35	12/15/2005	(469830)
36	01/11/2006	(469831)
37	02/23/2006	(469826)
38	03/15/2006	(469827)
39	04/20/2006	(499075)
40	05/11/2006	(499077)
41	05/11/2006	(577267)
42	06/07/2006	(499076)
43	08/15/2006	(521123)
44	09/13/2006	(521124)
45	10/13/2006	(577270)

46 11/16/2006 (577271)
 47 01/18/2007 (577273)
 48 02/15/2007 (577264)
 49 03/21/2007 (577265)
 50 04/19/2007 (577266)
 51 04/19/2007 (577272)
 52 05/18/2007 (577268)
 53 06/14/2007 (577269)
 54 07/18/2007 (602141)
 55 08/24/2007 (620251)
 56 09/17/2007 (602142)
 57 10/24/2007 (620252)
 58 11/26/2007 (620253)
 59 12/28/2007 (620254)
 60 02/12/2008 (611887)
 61 03/05/2008 (617450)

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

Date: 03/31/2004 (298959) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (441530) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (499076) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (577268) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (577269) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (620251) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (620252) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

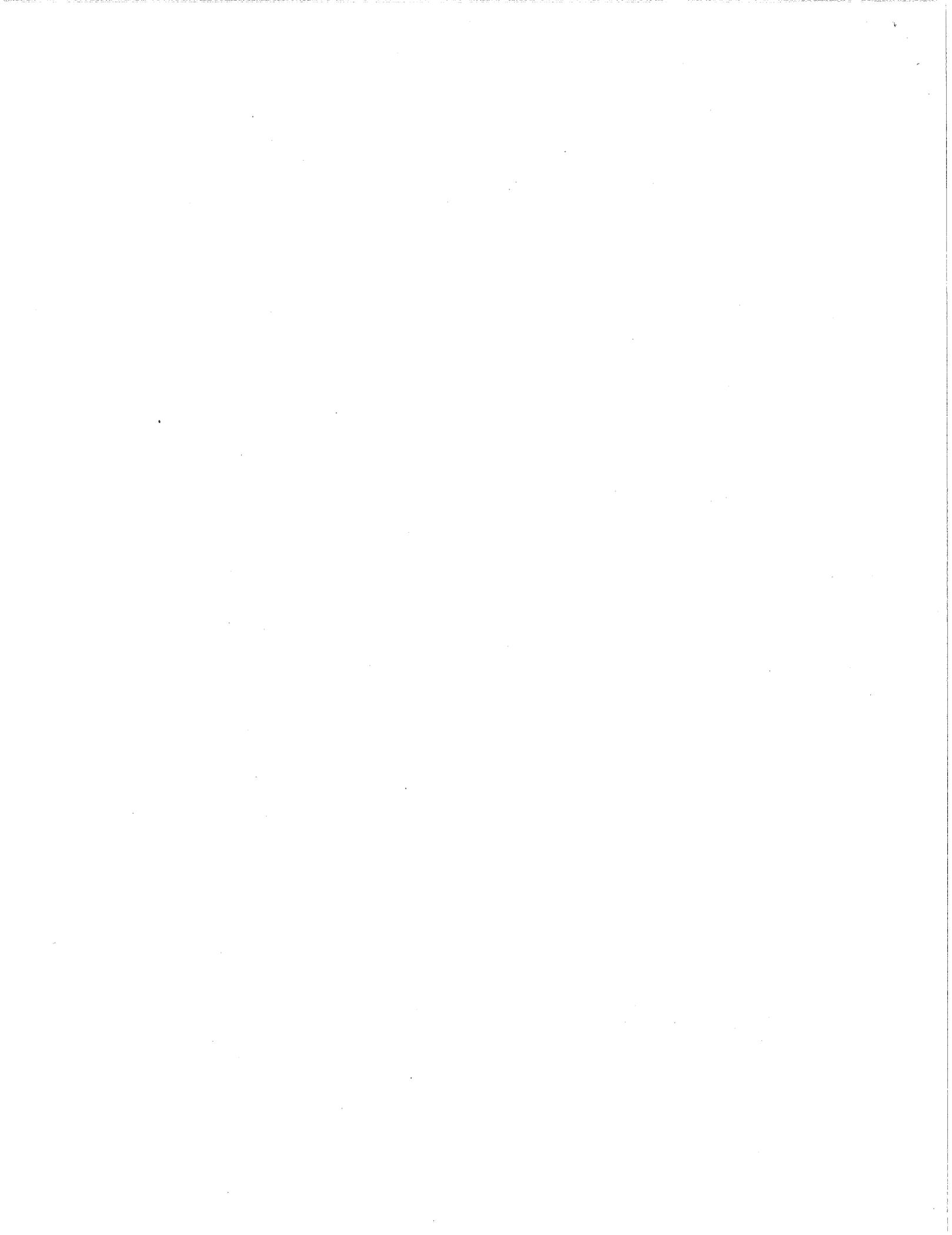
Date: 10/31/2007 (620253) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2007 (620254) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/13/2008 (611887) Classification: Minor
 Self Report? NO
 Citation: 30 TAC Chapter 317 317.3(e)(4)(D)
 Rqmt Prov: OP TPDES Permit WQ0010427-001
 Description: Failure to have working audio and visual high water alarms on the lift stations.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.3(a)
 30 TAC Chapter 317 317.3(e)(4)(C)

Rqmt Prov: OP TPDES Permit WQ0010427-001
Description: Failure to provide intruder resistant fence located at West Oregon lift station.
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: OP TPDES Permit WQ0010427-001
Description: Failure to prevent an unauthorized discharge of wastewater from the collection system.

- 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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 SEP 22 AM 11:34
CHIEF CLERKS OFFICE

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BISHOP
RN101920684

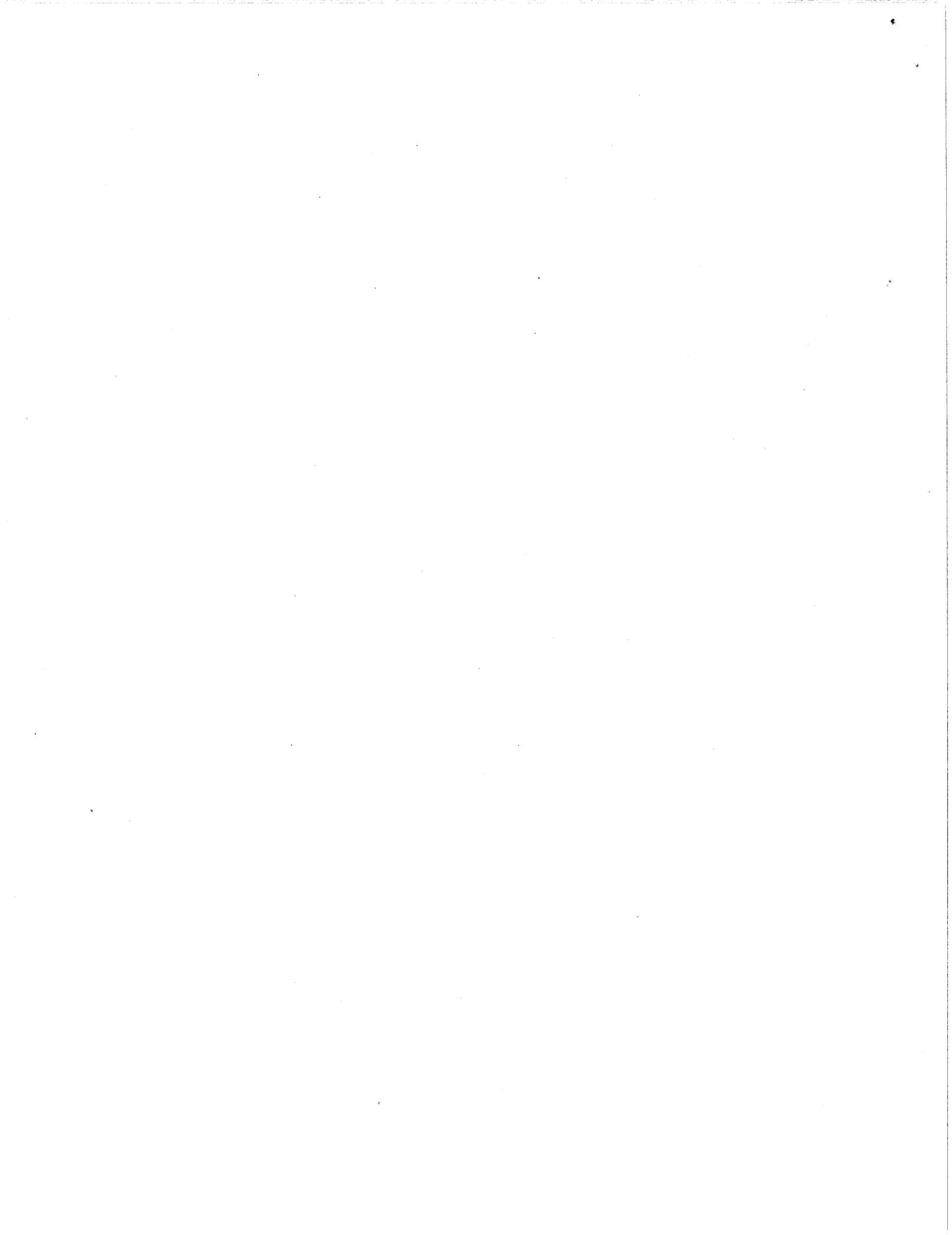
§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0557-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 the City of Bishop ("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 municipal wastewater treatment system located approximately 1.25 miles south of the intersection of United States Highway 77 and 6th Street, west of United States Highway 77 and adjacent to Carreta Creek in Nueces County, Texas ("the Facility").
2. The City has discharged sewage 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 9, 2008.
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 Six Thousand Dollars (\$6,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand



Two Hundred Dollars (\$1,200) 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. Four Thousand Eight Hundred Dollars (\$4,800) 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 initiated plans to install screens or other measures to prevent turtles and other aquatic animals from clogging up the Facility's piping in the treatment ponds.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to comply with its permitted effluent limits as shown in the following table, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010427001, Final Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on February 6, 2008.



	Daily Average Flow	CBOD ₅ Daily Average Loading	NH ₃ -N Daily Average Concentration
<i>Month/Year</i>	0.32 MGD	80 lbs/day	6 mg/L
Apr-07	c	c	8.4
May-07	0.46	c	c
Jul-07	0.61	129.82	c
Sep-07	0.49	101.47	c
Oct-07	0.59	113.2	c

CBOD₅= 5-day carbonaceous biochemical oxygen demand
NH₃-N= ammonia nitrogen mg/l= milligrams per liter lbs/day=pounds per day
MGD= million gallons per day c = compliant

- Failed to submit the annual sludge report for the period ending July 31, 2007 by September 1, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010427001, Sludge Provisions, as documented during a record review conducted on February 6, 2008.

III. DENIALS

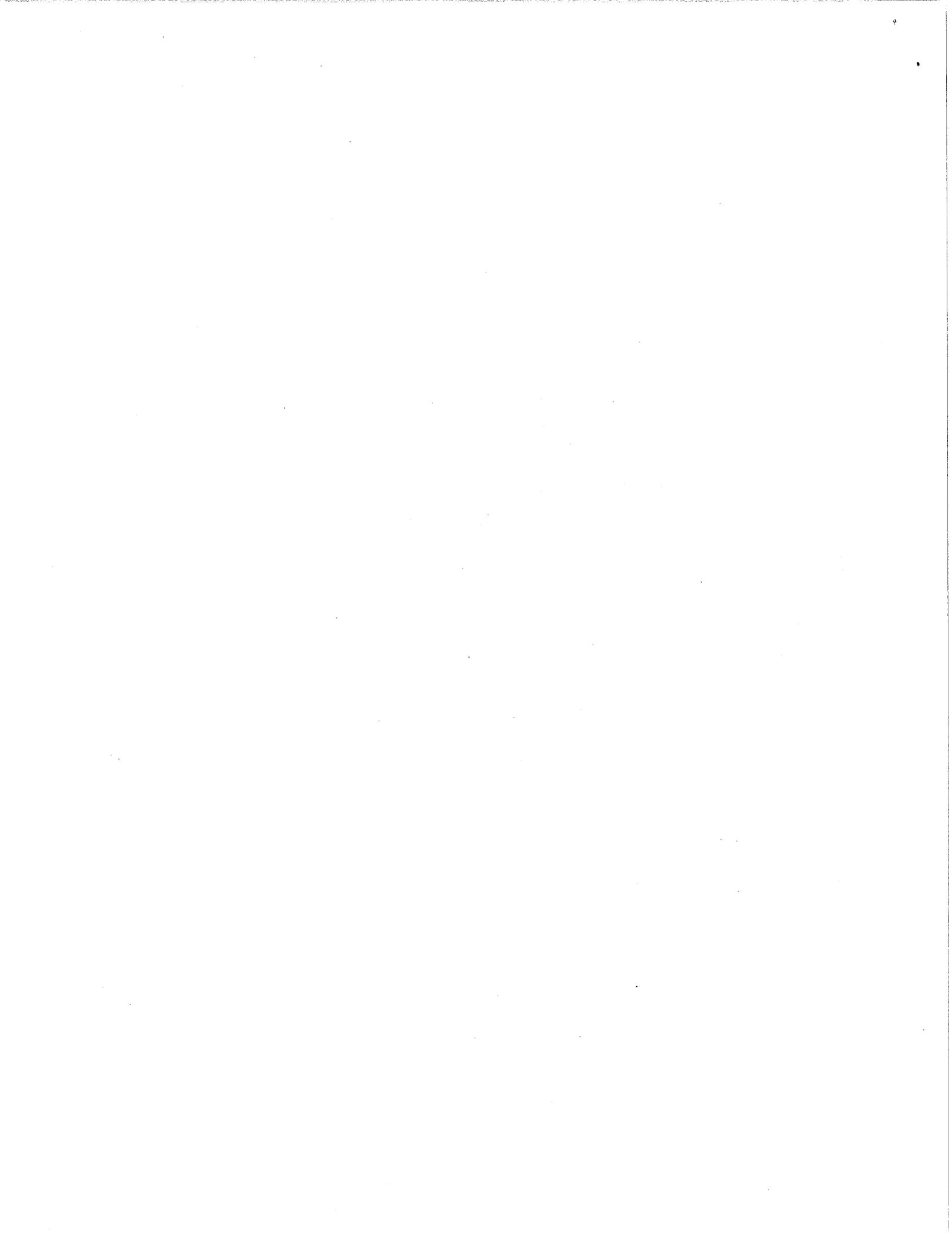
The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

- 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 Bishop, Docket No. 2008-0557-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

- The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Eight Hundred Dollars (\$4,800) 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, submit the 2007 annual sludge report for the Facility, in accordance with the requirements of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010427001, Sludge Provisions to:

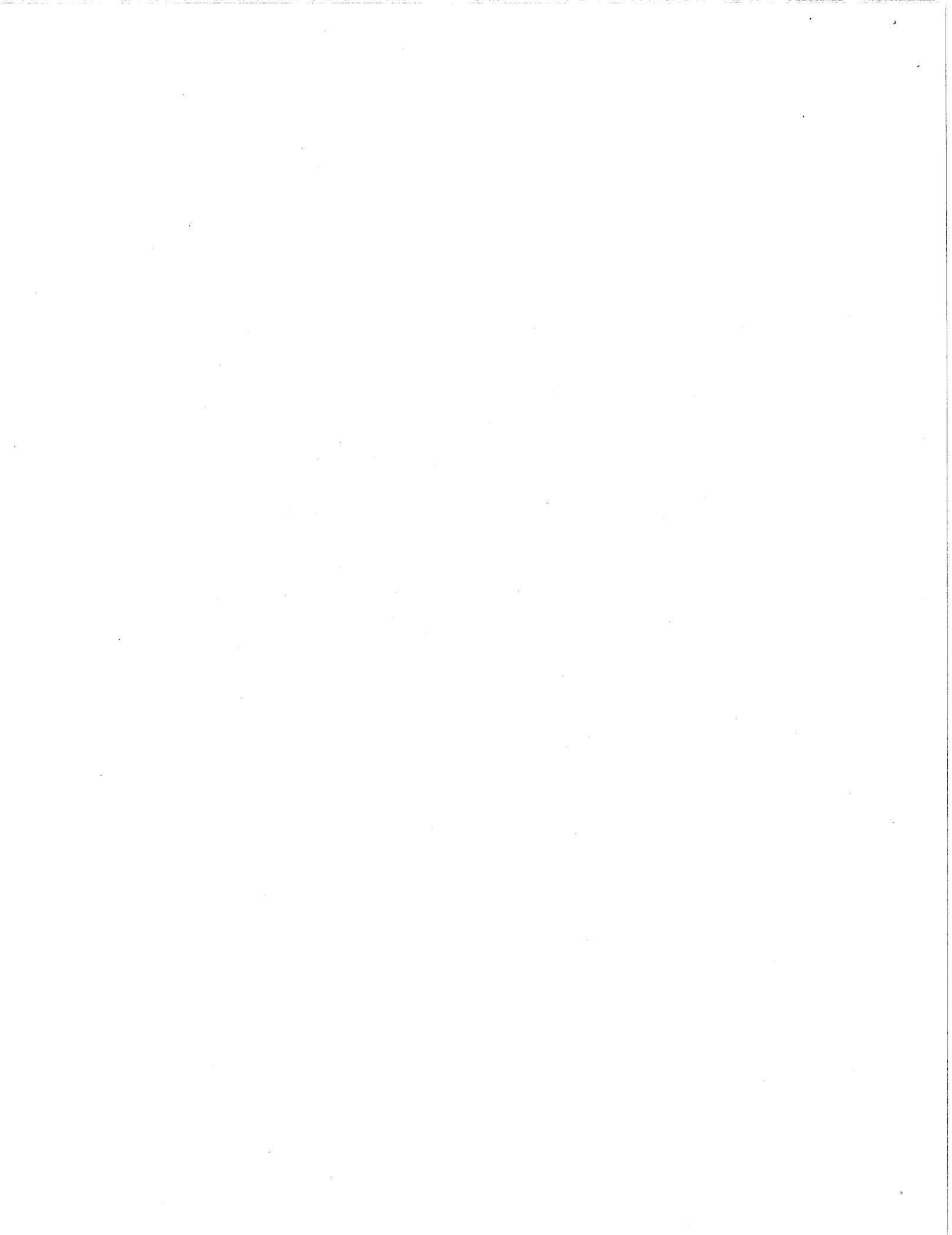
Compliance Monitoring Team (MC 224)
Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a as described in Ordering Provision No. 3.d below.
- c. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010427001.
- d. The written certification required by Ordering Provision Nos. 3.b and 3.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

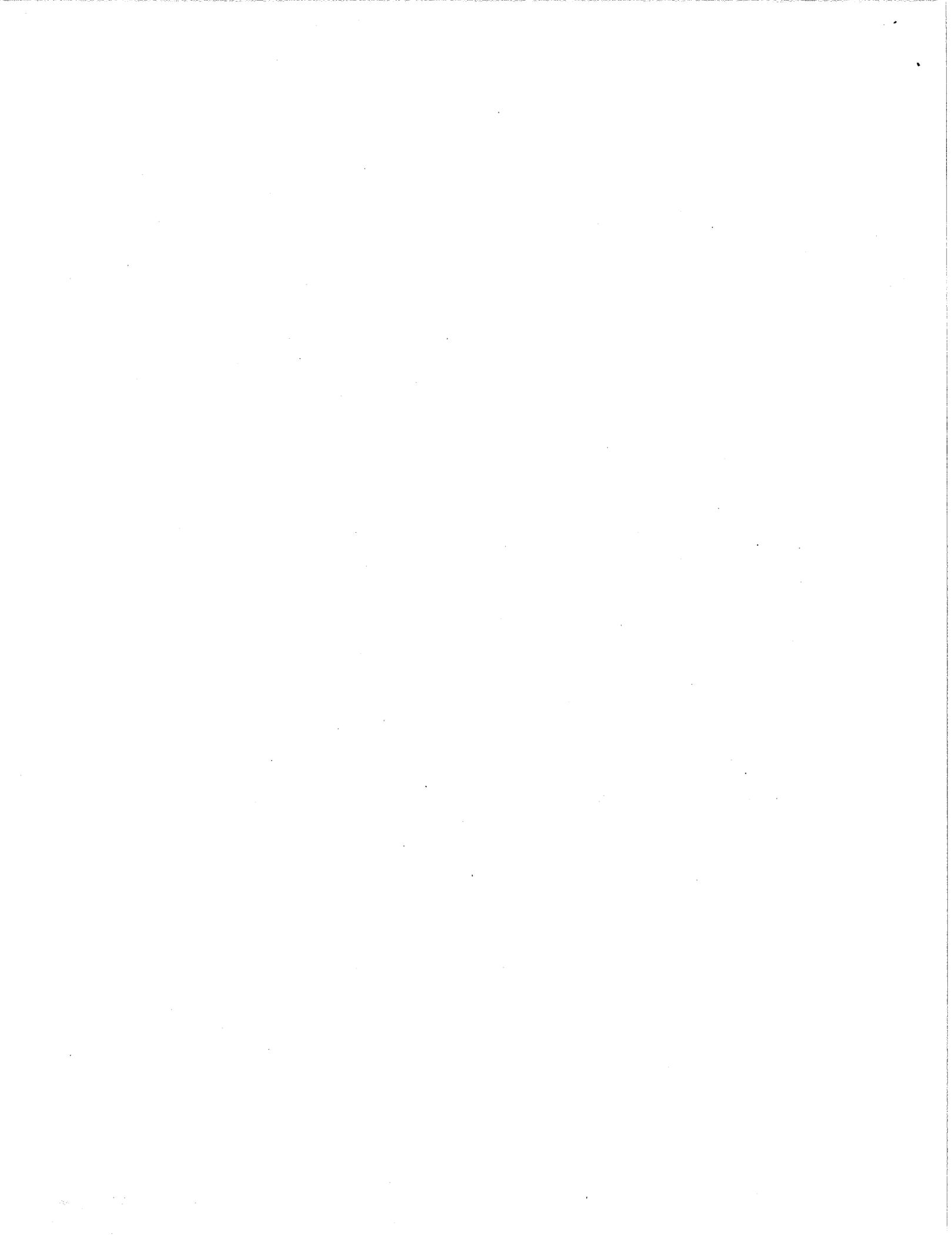
Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087



with a copy to:

Water Section, Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 5839
Corpus Christi, Texas 78412-5839

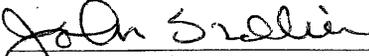
4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering 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



For the Executive Director

Date 9/4/2008

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

Victor Ramos

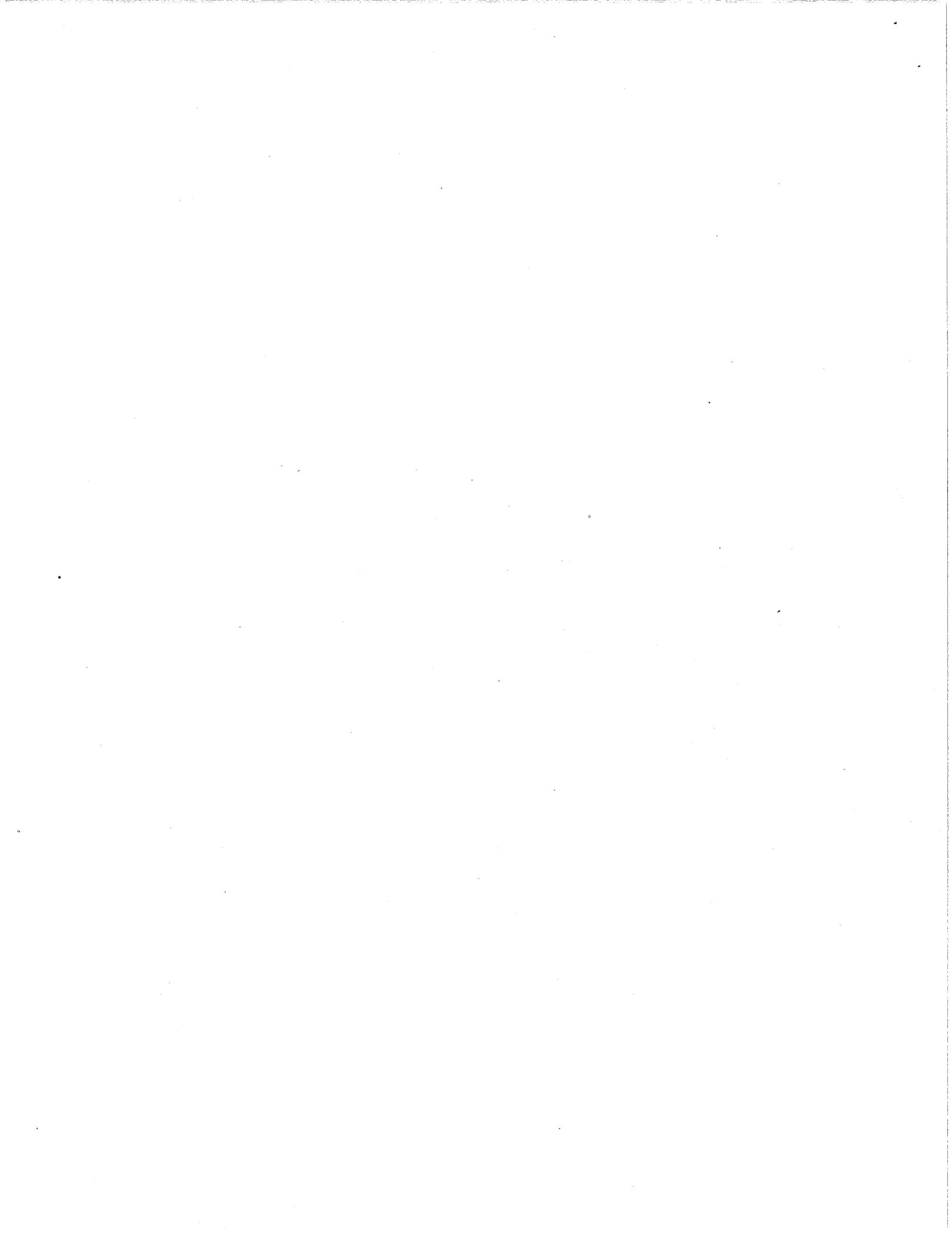
Date June 25, 2008

Mayor - City of Bishop

Name (Printed or typed)
Authorized Representative of
City of Bishop

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: 2008-0557-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Bishop ("the City")
Penalty Amount:	Four Thousand Eight Hundred Dollars (\$4,800)
SEP Offset Amount:	Four Thousand Eight Hundred Dollars (\$4,800)
Type of SEP:	Custom – Cleanup of Illegal Dumpsites
Location of SEP:	Nueces County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the City 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 City shall perform a cleanup of an unauthorized dumpsite on at least two properties in Nueces County and shall utilize recycling of recyclable materials where possible. Eligible sites will be those where a responsible party cannot be found or is unable to clean the site and where reasonable efforts have been made to prevent the dumping. The City shall post signs or implement other measures in an effort to prevent future occurrences of illegal dumping.

The City shall use contract labor to perform the project or shall only receive credit for its employee labor to the extent that it is used on an overtime basis and can be documented. The City will not receive credit for gratuities or inducements for volunteers. The City 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 City shall perform this project in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should the material catch fire.

C. Minimum Expenditure

The City 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 City understands that it may cost more than the required SEP Offset Amount to complete this project.

2. Performance Schedule

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

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the City 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. The City shall submit progress reports in 90-day increments thereafter until completion of the project.

B. Final Report

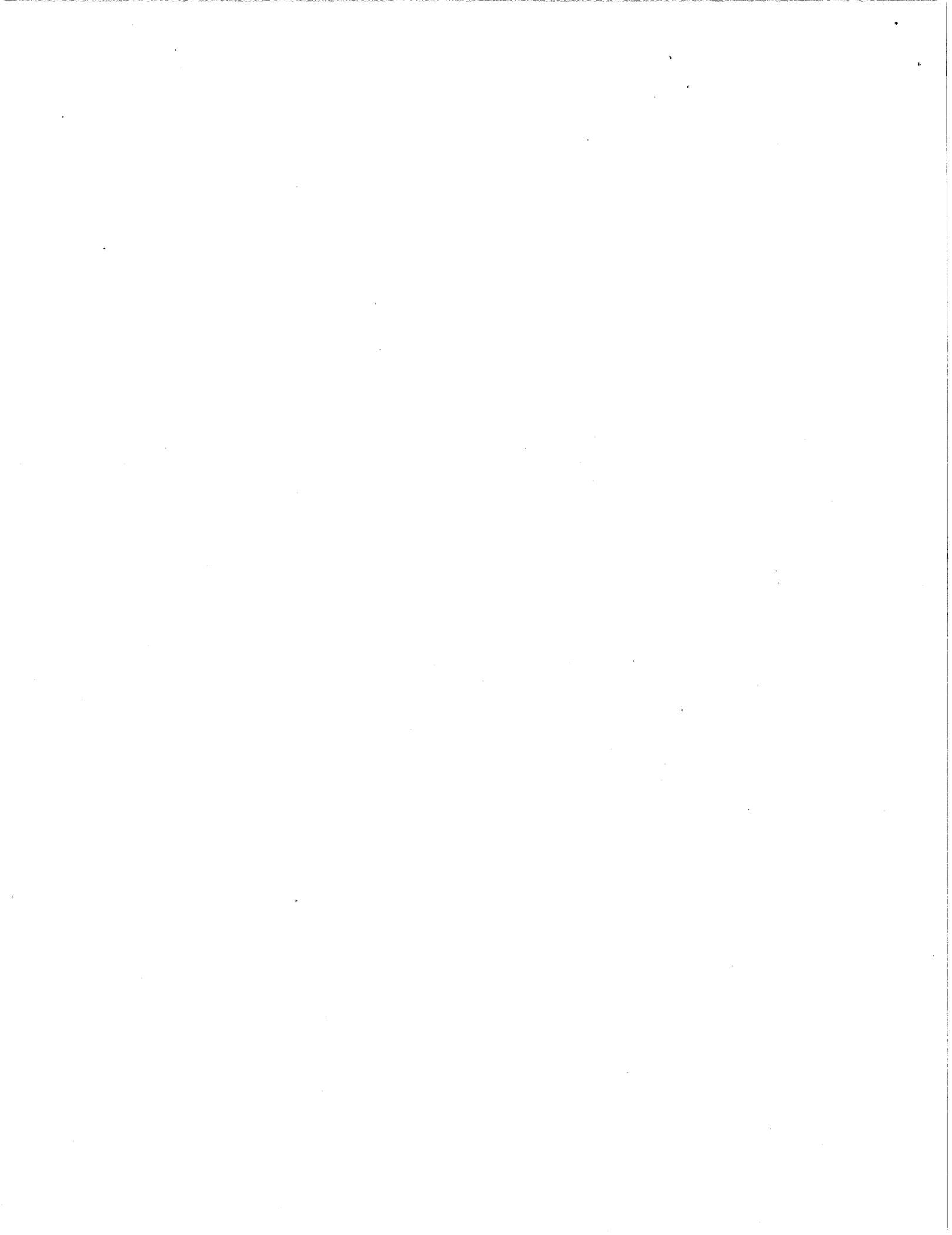
Within 90 days after completion of the project, the City shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. Manifests showing proper transport and disposal or recycling of materials;
3. The quantity of materials collected such as number of tires, gallons of paint, etc;
4. Before and after photographs of the project;
5. A statement of quantifiable environmental benefits; and
6. Any additional information the City believes will demonstrate compliance with this Attachment A.

C. Address

The City 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 City 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 City 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 City 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 Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the City shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The City shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it 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 City 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 City shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the City 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 City under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

