

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0613-MWD-E **TCEQ ID:** RN101614055 **CASE NO.:** 35719

RESPONDENT NAME: City of Weatherford

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 Weatherford, located at 1327 Eureka Street, approximately 4,000 feet north-northwest of the intersection of Interstate Highway 20 and Farm-to-Market Road 2552, Parker County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 15, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Ronnie Warren, Chairman, Weatherford Municipal Utility System, City of Weatherford, P.O. Box 255, Weatherford, Texas 76086 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 2008 SEP 22 AM 11:31
 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: March 11, 2008</p> <p>Date of NOE Relating to this Case: March 27, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010380002, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$3,050</p> <p>Total Deferred: \$610 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,440</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent achieved compliance by January 1, 2008, by implementing a wasting protocol to restore the nitrifying bacteria, and investigating the source of the pollutant that disrupted the function of the Facility.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p>

Additional ID No(s): WQ0010380002

Attachment A
Docket Number: 2008-0613-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Weatherford (“the City”)
Payable Penalty Amount: Two Thousand Four Hundred Forty Dollars (\$2,440)
SEP Amount: Two Thousand Four Hundred Forty Dollars (\$2,440)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful-Waterway Cleanup Program
Location of SEP: Parker County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the Administrative Penalty Amount assessed in this Agreed Order for the City to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

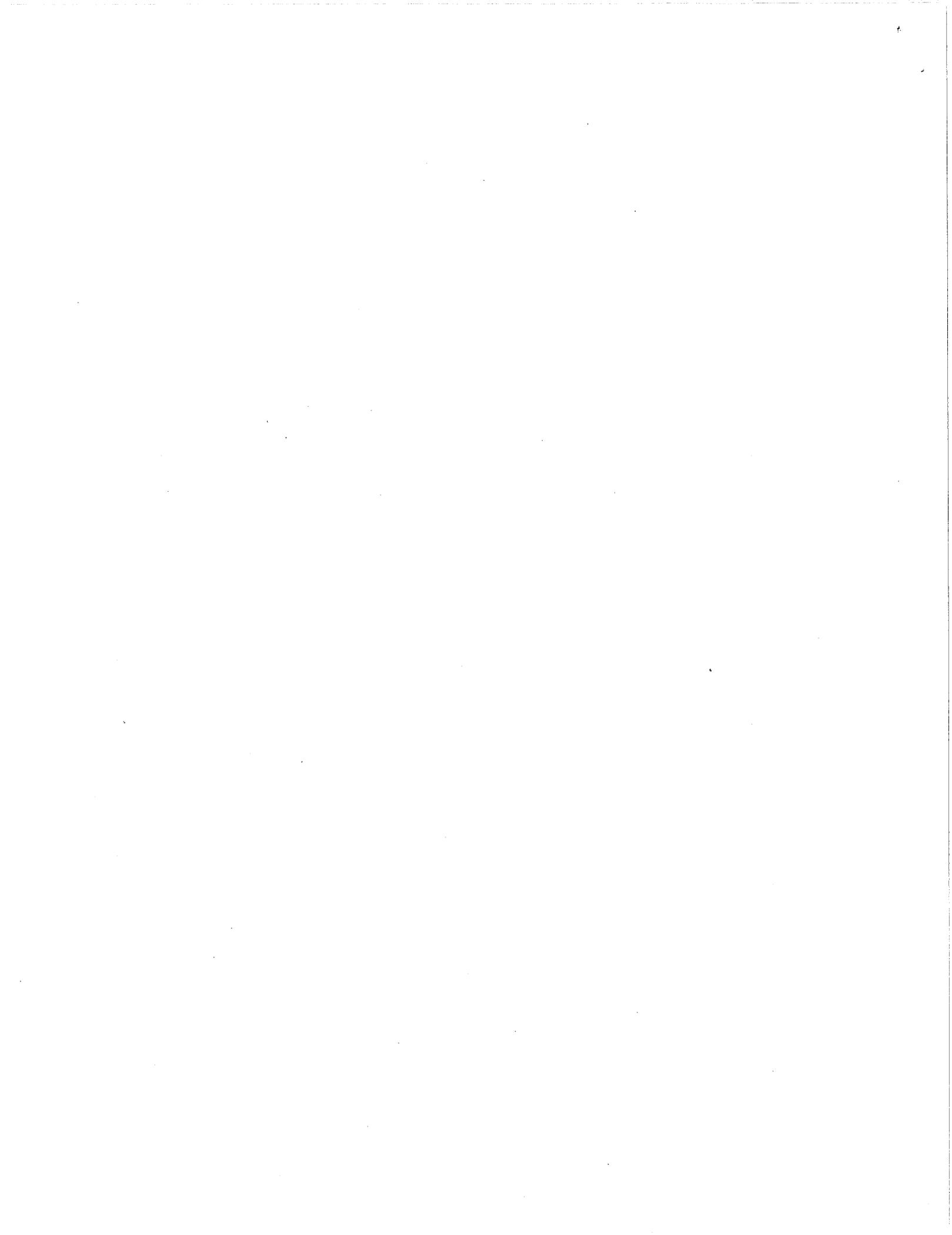
A. Project

The City shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done 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 improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.



C. Minimum Expenditure

The City shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the City must contribute the SEP Amount to the Third-Party Recipient. The City shall mail the contribution, with a copy of the Agreed Order, to:

Hester Bloom, Program Manager
Keep Texas Beautiful
P.O. Box 2251
Austin, Texas 78768

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the City shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The City shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

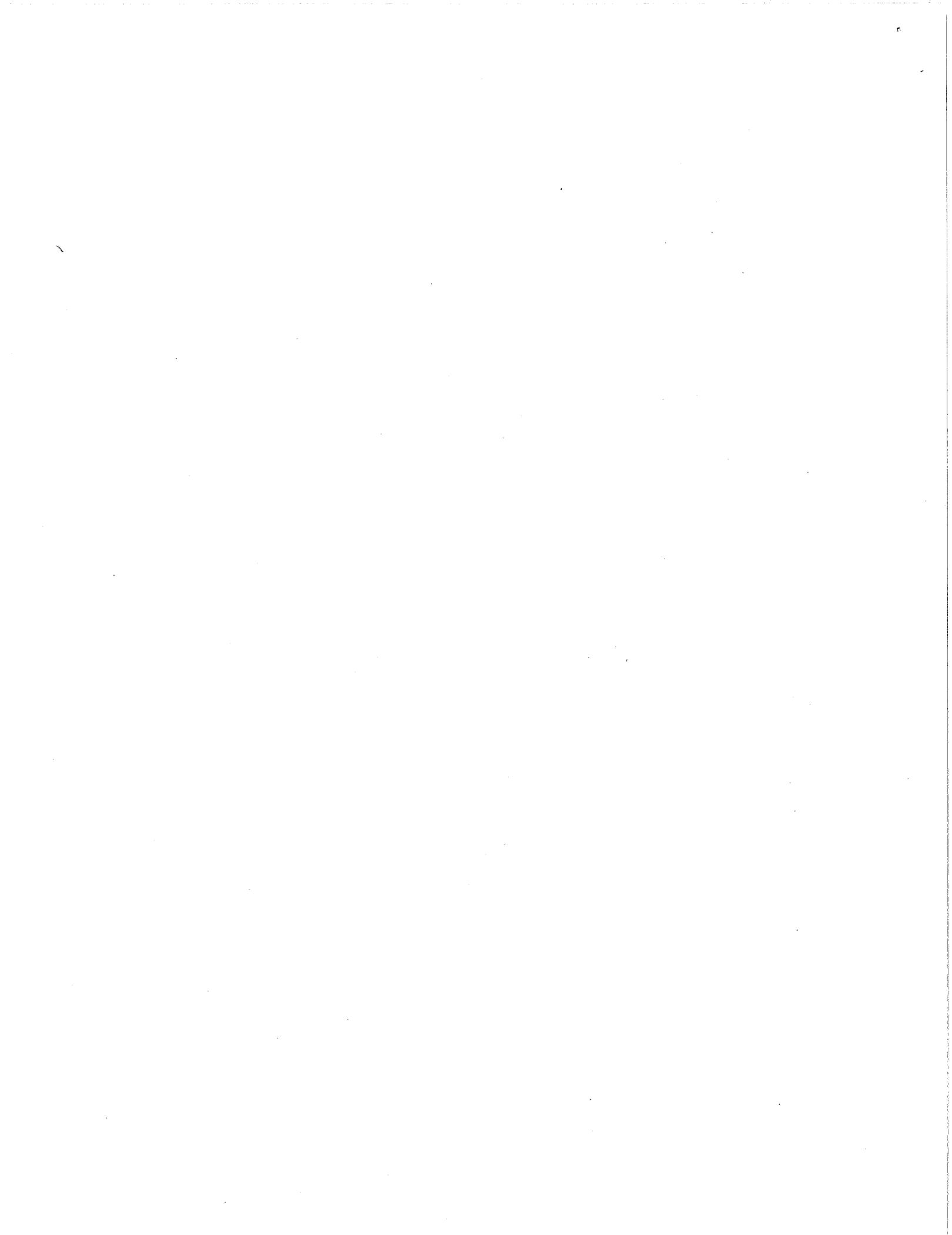
4. Failure to Fully Perform

If the City does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The City shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.



5. Publicity

Any public statements concerning this SEP made by or on behalf of the 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.

6. Clean Texas Program

The City shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the City may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the City under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision February 29, 2008

DATES	Assigned	31-Mar-2008	Screening	11-Apr-2008	EPA Due	5-Jun-2008
	PCW	11-Apr-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Weatherford
Reg. Ent. Ref. No.	RN101614055
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35719	No. of Violations	1
Docket No.	2008-0613-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
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 47% Enhancement **Subtotals 2, 3, & 7**

Notes: The Respondent self-reported two months of effluent violations, was issued two Notices of Violations ("NOVs") for violations that are considered same or similar, was issued one NOV for violations that are not similar, and was issued an order without denial of liability.

Culpability No **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction **Subtotal 5**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	(mark with x)	

Notes: The Respondent came into compliance by January 1, 2008.

Total EB Amounts **Subtotal 6**

Approx. Cost of Compliance 0% Enhancement*
*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.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 11-Apr-2008

Docket No. 2008-0613-MWD-E

PCW

Respondent City of Weatherford

Policy Revision 2 (September 2002)

Case ID No. 35719

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101614055

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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 (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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	1	25%
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 (<i>number of judgments or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported two months of effluent violations, was issued two Notices of Violations ("NOVs") for violations that are considered same or similar, was issued one NOV for violations that are not similar, and was issued an order without denial of liability.

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

Screening Date 11-Apr-2008
 Respondent City of Weatherford
 Case ID No. 35719
 Reg. Ent. Reference No. RN101614055
 Media [Statute] Water Quality
 Enf. Coordinator Heather Brister

Docket No. 2008-0613-MWD-E

PCW
 Policy Revision 2 (September 2002)
 PCW Revision February 29, 2008

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

A simplified model was used to evaluate 5-day carbonaceous biochemical oxygen demand, ammonia nitrogen, and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Weatherford
Case ID No. 35719
Reg. Ent. Reference No. RN101614055
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				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)	\$4,000	1-Nov-2007	1-Jan-2008	0.2	\$33	n/a	\$33

Notes for DELAYED costs
 Estimated cost to implement a wasting protocol to re-establish the nitrifying bacteria and to investigate the cause of the exceedance. The Date Required is the date of noncompliance and the Final Date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$4,000	TOTAL	\$33
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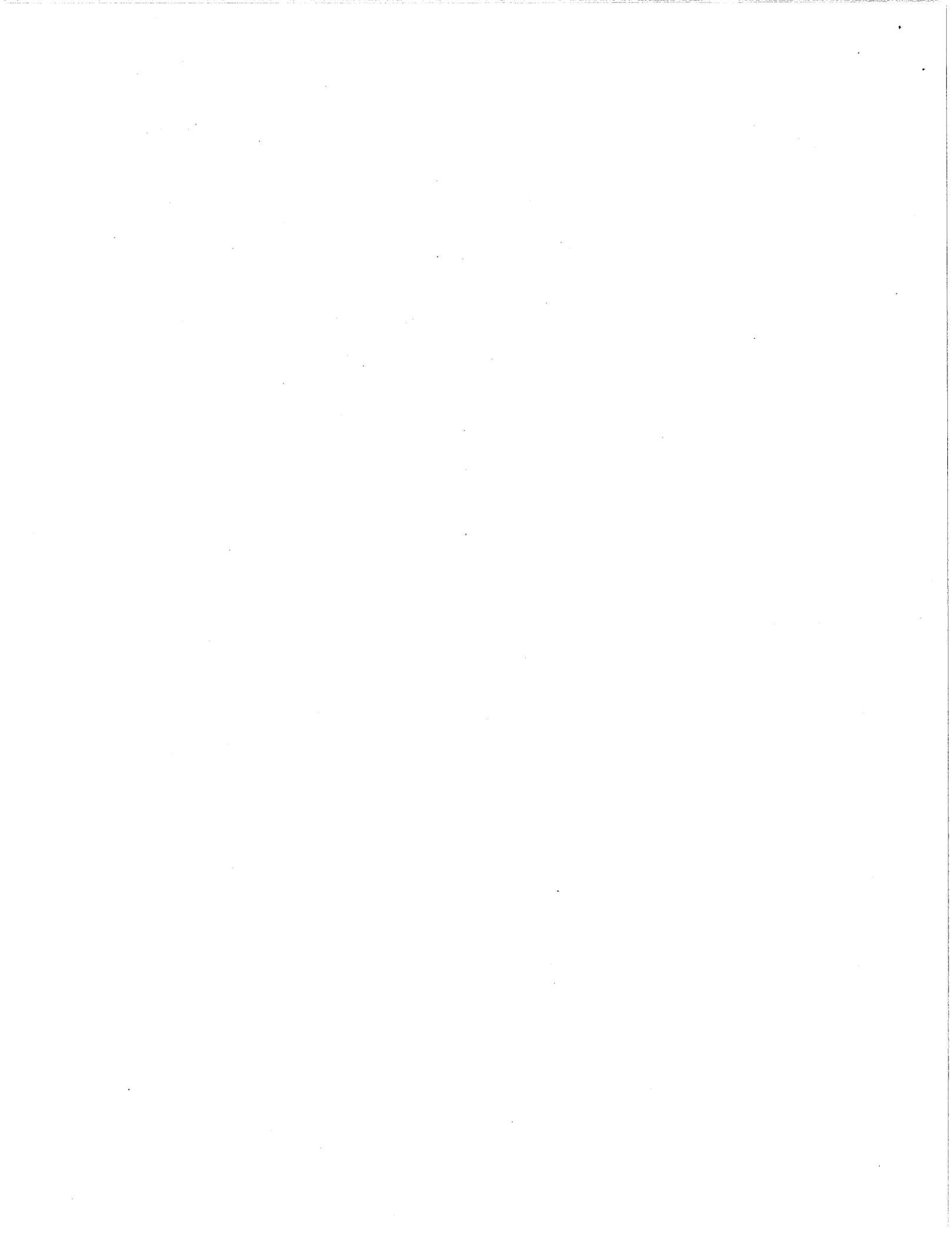
Effluent Limit Violation Table

table rev.

Respondent	City of Weatherford
ID Number(s)	WQ0010380002
Docket Number	2008-0613-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number: 1

<i>EFFLUENT PARAMETER</i>		
<i>Permit Limit</i>		
	Ammonia Nitrogen Daily Average Concentration 2 Milligrams per Liter	Ammonia Nitrogen Daily Maximum Concentration 10 Milligrams per Liter
<i>Month/Year</i>		
Nov-07	4.39	17.50
Dec-07	2.97	11.10



Compliance History

Customer/Respondent/Owner-Operator: CN600754865 City of Weatherford Classification: AVERAGE Rating: 4.01
 Regulated Entity: RN101614055 CITY OF WEATHERFORD Classification: AVERAGE Site Rating: 1.62

ID Number(s):	WASTEWATER	PERMIT	WQ0010380002
	WASTEWATER	PERMIT	TPDES0047724
	WASTEWATER	PERMIT	TX0047724
	WASTEWATER	PERMIT	TX0047724000
	PRETREATMENT	EPA ID	TX0047724000
	PRETREATMENT	PERMIT	WQ0010380002
	STORMWATER	PERMIT	TXR05U294

Location: Located at 1327 Eureka Street approximately 4,000 feet north-northwest of the intersection of Interstate Highway 20 and Farm-to-Market Road 2552 in Parker County, Texas. Rating Date: September 01 07
 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: April 10, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 10, 2003 to April 10, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Heather Brister Phone: (254) 761-3048

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: 10/19/2006 | ADMINORDER 2006-0070-WQ-E |
| Classification: Major | |
| Citation: TWC Chapter 26 26.121(a)(1) | |
| Description: Failure to prevent an unauthorized discharge resulting in a fish kill. | |
- 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 | 04/11/2003 | (183086) |
| 2 | 05/20/2003 | (183090) |
| 3 | 06/13/2003 | (183094) |
| 4 | 07/09/2003 | (183098) |
| 5 | 08/13/2003 | (305886) |
| 6 | 09/18/2003 | (305888) |
| 7 | 10/21/2003 | (305892) |
| 8 | 11/12/2003 | (305890) |
| 9 | 12/15/2003 | (254607) |
| 10 | 12/19/2003 | (305891) |
| 11 | 01/14/2004 | (259292) |
| 12 | 02/13/2004 | (305875) |
| 13 | 04/07/2004 | (305884) |
| 14 | 04/07/2004 | (305893) |
| 15 | 04/20/2004 | (305878) |
| 16 | 05/06/2004 | (332916) |
| 17 | 05/11/2004 | (305880) |

18	06/15/2004	(305882)
19	08/09/2004	(356334)
20	09/20/2004	(356335)
21	10/18/2004	(356336)
22	11/19/2004	(356337)
23	12/17/2004	(384202)
24	02/14/2005	(384200)
25	03/15/2005	(384201)
26	04/18/2005	(422127)
27	05/20/2005	(422128)
28	05/23/2005	(422130)
29	05/23/2005	(422131)
30	06/15/2005	(422129)
31	08/22/2005	(443029)
32	08/22/2005	(443030)
33	09/13/2005	(443031)
34	10/17/2005	(472619)
35	10/31/2005	(432549)
36	11/14/2005	(472620)
37	12/16/2005	(472621)
38	01/13/2006	(451665)
39	02/13/2006	(472615)
40	02/17/2006	(431009)
41	04/03/2006	(472618)
42	04/03/2006	(472622)
43	04/17/2006	(472617)
44	05/01/2006	(472616)
45	05/11/2006	(500970)
46	06/15/2006	(500971)
47	08/17/2006	(523137)
48	09/14/2006	(523138)
49	10/16/2006	(547985)
50	11/15/2006	(547986)
51	12/12/2006	(547987)
52	01/20/2007	(603181)
53	02/20/2007	(580873)
54	03/14/2007	(580874)
55	04/13/2007	(580875)
56	05/10/2007	(580876)
57	06/20/2007	(580877)
58	07/09/2007	(603183)
59	07/17/2007	(603179)
60	07/30/2007	(568419)
61	08/13/2007	(603180)
62	09/12/2007	(603182)
63	10/15/2007	(621624)
64	11/16/2007	(599562)
65	11/19/2007	(621625)
66	12/03/2007	(610776)
67	12/10/2007	(621626)
68	03/10/2008	(637870)
69	03/25/2008	(542936)
70	03/27/2008	(638807)

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

Date: 05/06/2004 (332916)

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: 10/31/2005 (432549)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)
 TWC Chapter 26 26.121(a)(1)
 TWC Chapter 26 26.121(a)(2)
 TWC Chapter 26 26.121(a)(3)
 TWC Chapter 26 26.121(b)
 TWC Chapter 26 26.121(c)
 TWC Chapter 26 26.121(d)
 TWC Chapter 26 26.121(e)
 Description: Failure to prevent unauthorized discharges.

Date: 01/10/2006 (451135)
 Self Report? NO Classification: Minor
 Citation: TWC Chapter 26 26.121
 Description: Failure to prevent an unauthorized discharge.

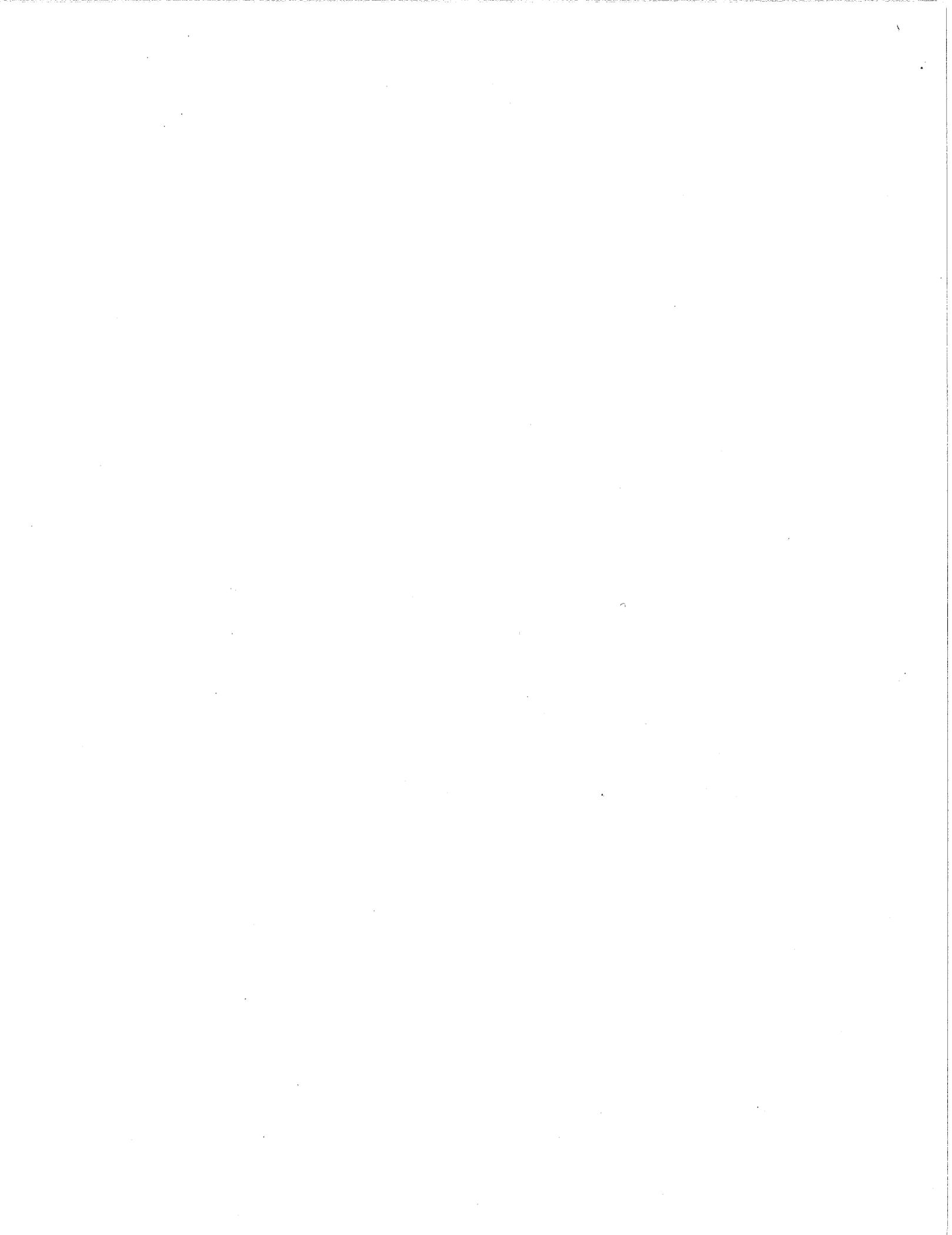
Date: 11/30/2007 (621626)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007 (603183)
 Self Report? YES Classification: Moderate
 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

- 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 11:32
CHIEF CLERKS OFFICE

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF WEATHERFORD
RN101614055

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0613-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 Weatherford ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located at 1327 Eureka Street, approximately 4,000 feet north-northwest of the intersection of Interstate Highway 20 and Farm-to-Market Road 2552 in Parker County, Texas (the "Facility").
2. The City has discharged municipal waste 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 April 1, 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 Three Thousand Fifty Dollars (\$3,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Four Hundred Forty Dollars (\$2,440) of the administrative penalty shall be

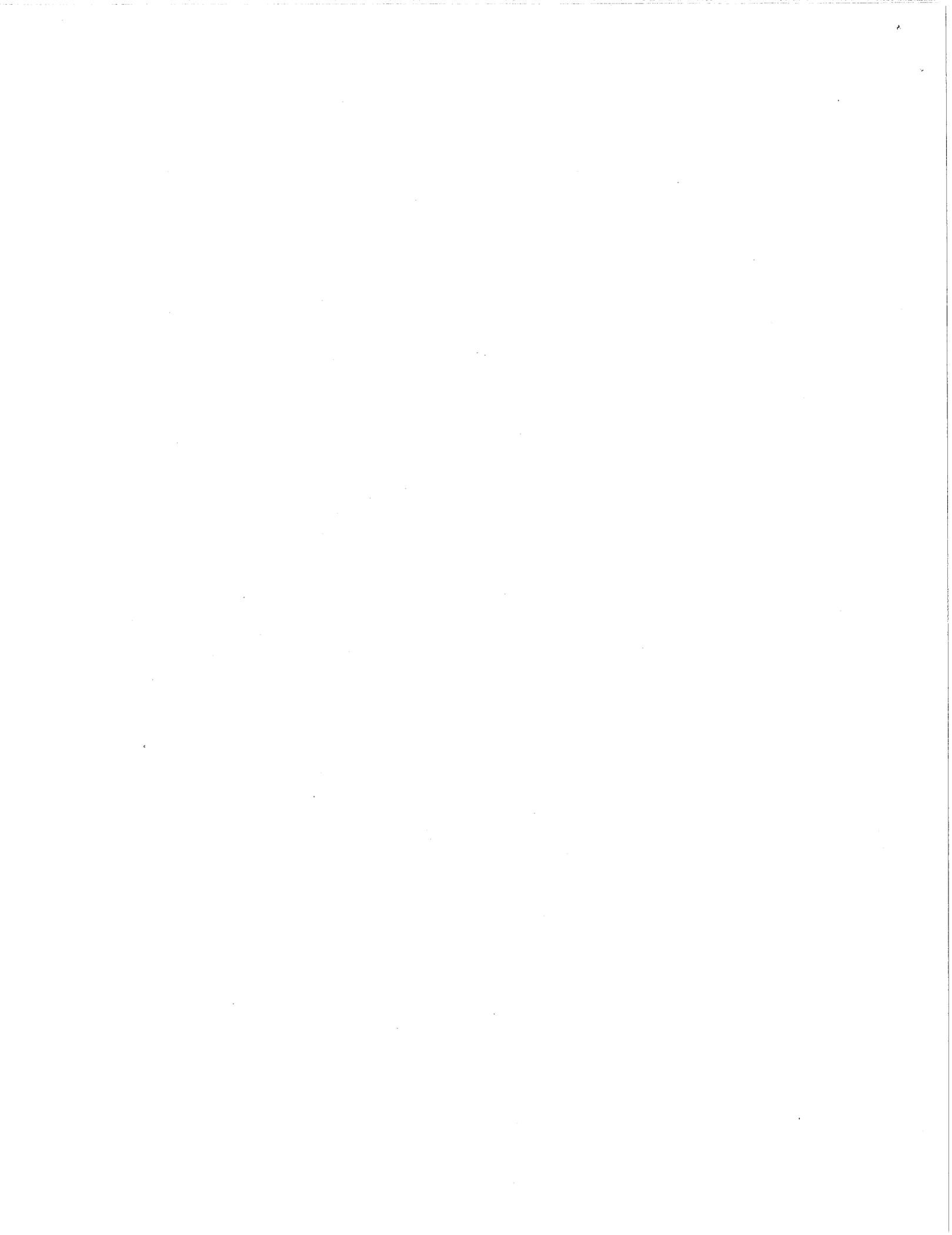
conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") and Six Hundred Ten Dollars (\$610) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance 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.

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 achieved compliance by January 1, 2008, by implementing a wasting protocol to restore the nitrifying bacteria, and investigating the source of the pollutant that disrupted the function of the Facility.
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 failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010380002, Effluent Limitations and Monitoring Requirements No. 1, as documented by a TCEQ record review conducted on March 11, 2008, and as seen in the following table.

<i>EFFLUENT PARAMETER</i>		
<i>Permit Limit</i>		
	Ammonia Nitrogen Daily Average Concentration 2 Milligrams per Liter	Ammonia Nitrogen Daily Maximum Concentration 10 Milligrams per Liter
<i>Month/Year</i>		
Nov-07	4.39	17.50
Dec-07	2.97	11.10



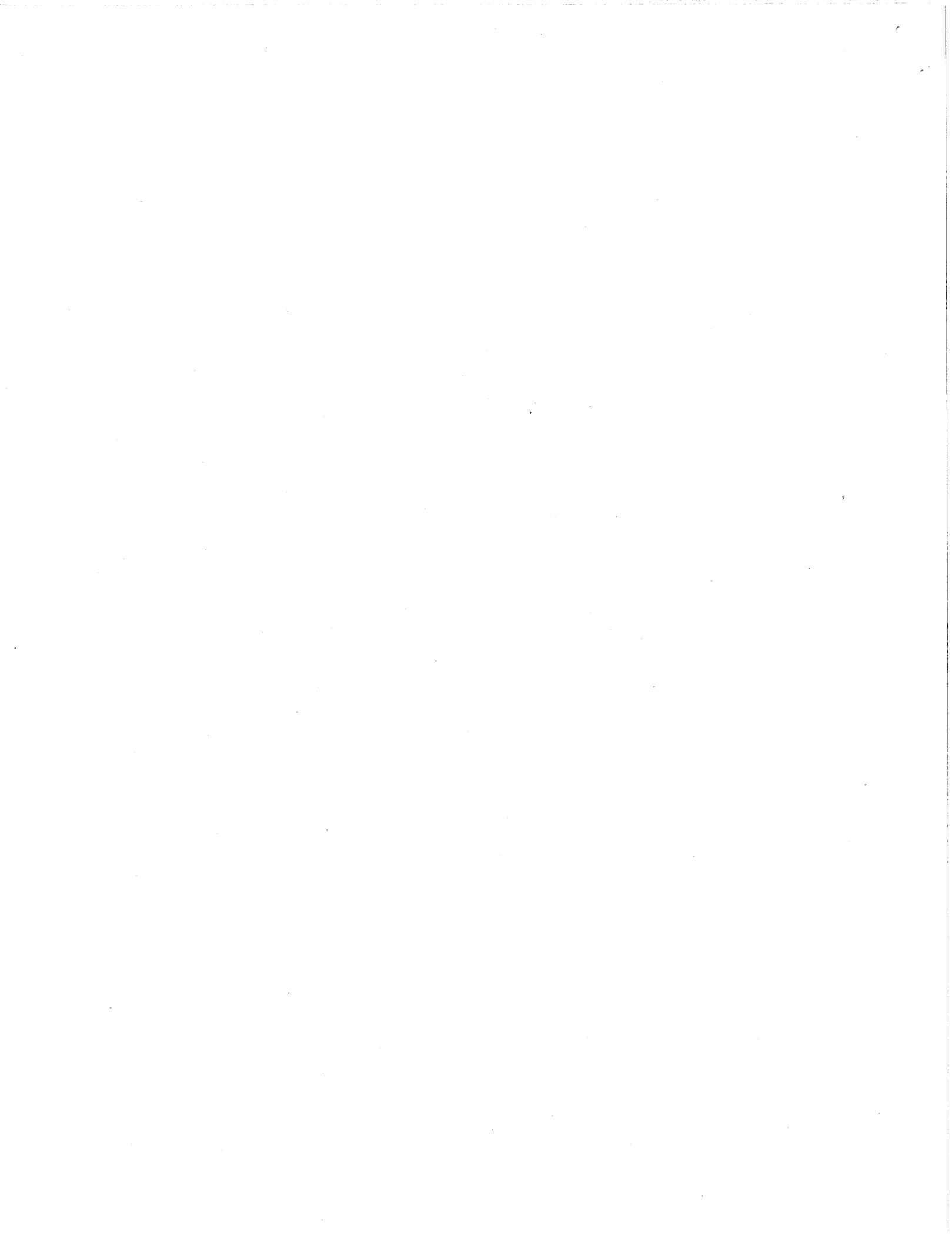
III. DENIALS

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

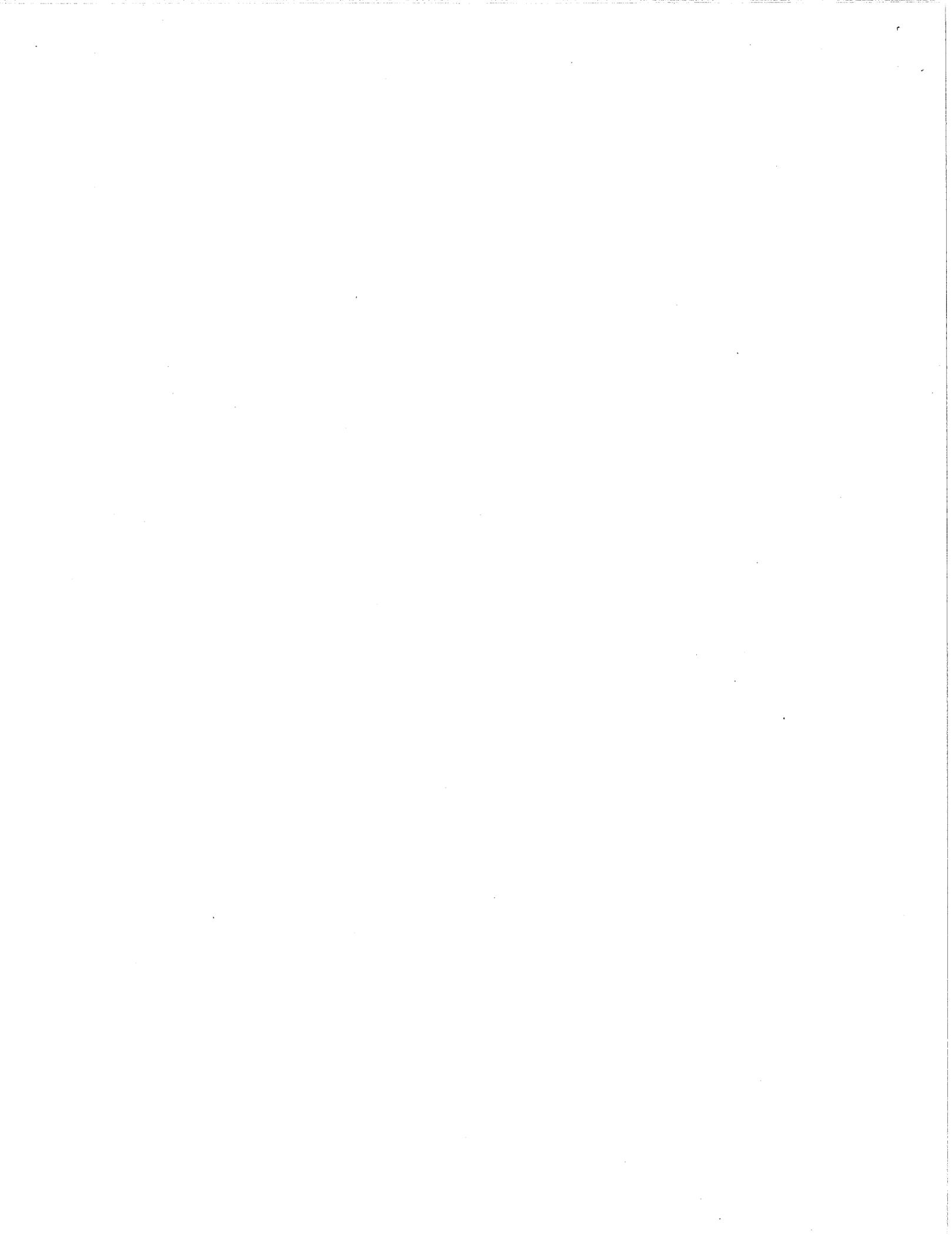
IV. ORDERING PROVISIONS

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 Weatherford, Docket No. 2008-0613-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 above, Two Thousand Four Hundred Forty Dollars (\$2,440) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.



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



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

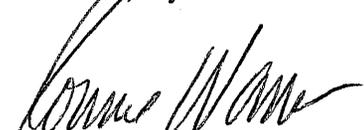
Date 9/17/2008

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

Date 7/7/08

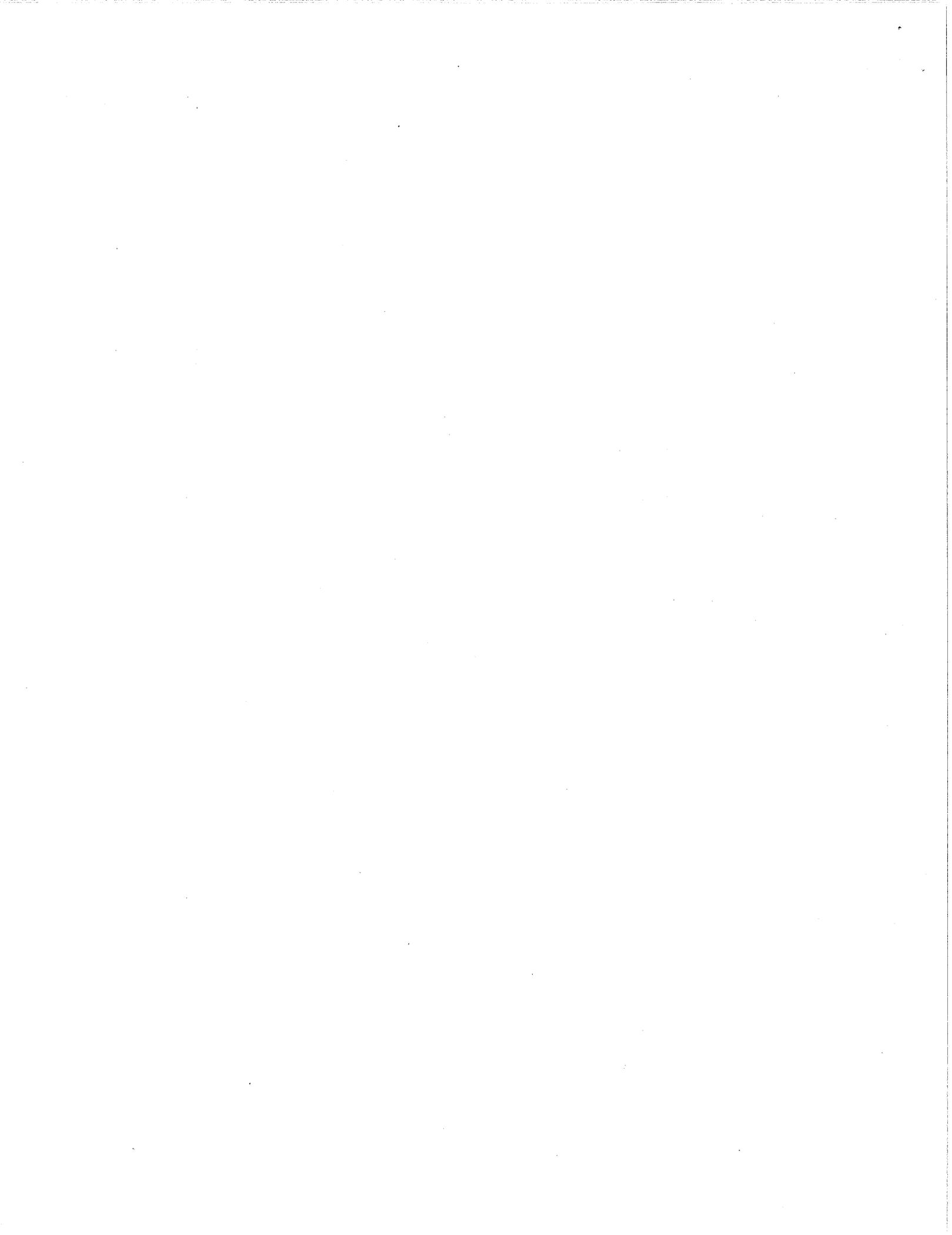
Ronnie Warren, Chairman

Weatherford Municipal Utility System

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

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: 2008-0613-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Weatherford (“the City”)
Payable Penalty Amount: Two Thousand Four Hundred Forty Dollars (\$2,440)
SEP Amount: Two Thousand Four Hundred Forty Dollars (\$2,440)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful-Waterway Cleanup Program
Location of SEP: Parker County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the Administrative Penalty Amount assessed in this Agreed Order for the City to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

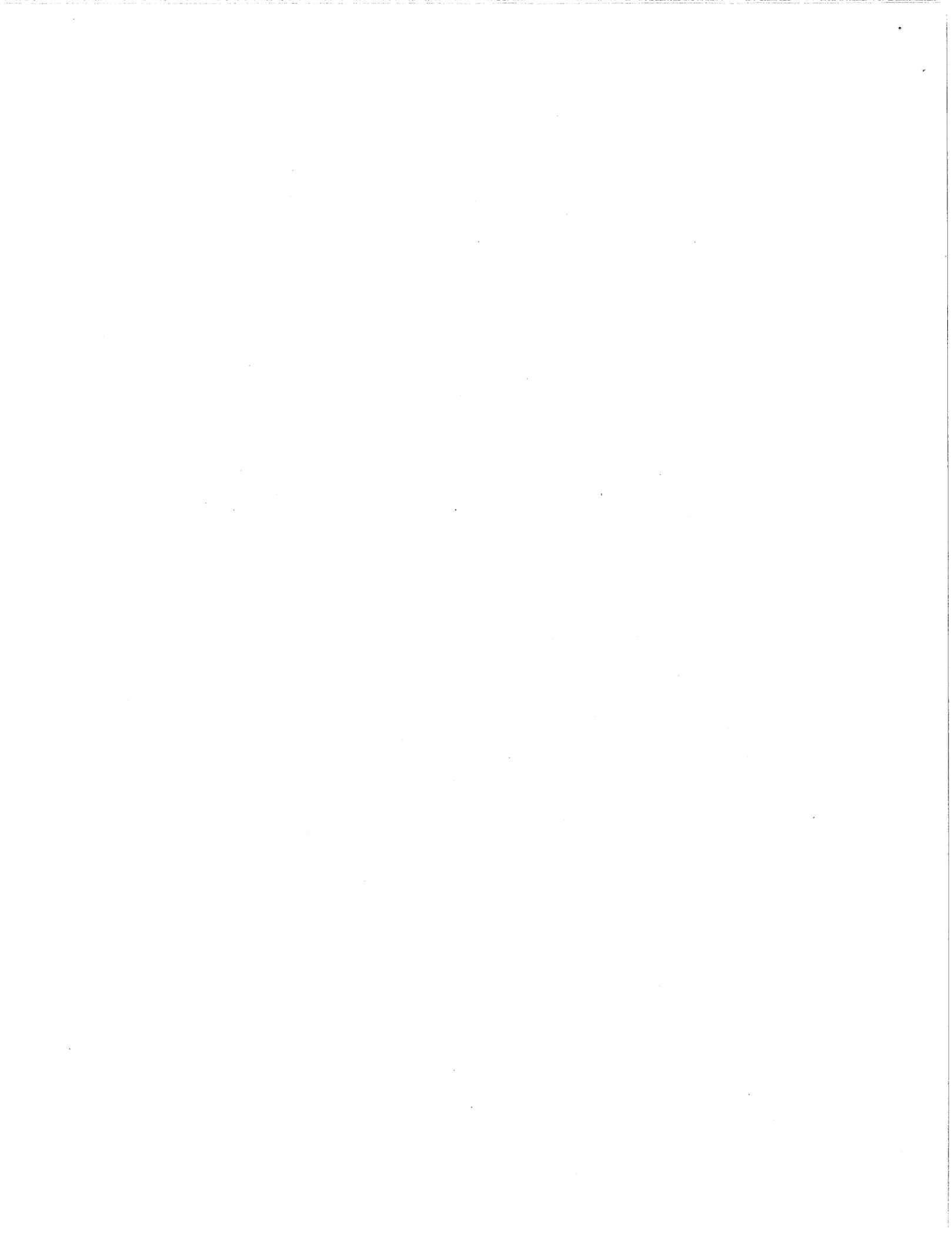
A. Project

The City shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done 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 improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.



C. Minimum Expenditure

The City shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the City must contribute the SEP Amount to the Third-Party Recipient. The City shall mail the contribution, with a copy of the Agreed Order, to:

Hester Bloom, Program Manager
Keep Texas Beautiful
P.O. Box 2251
Austin, Texas 78768

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the City shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The City shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

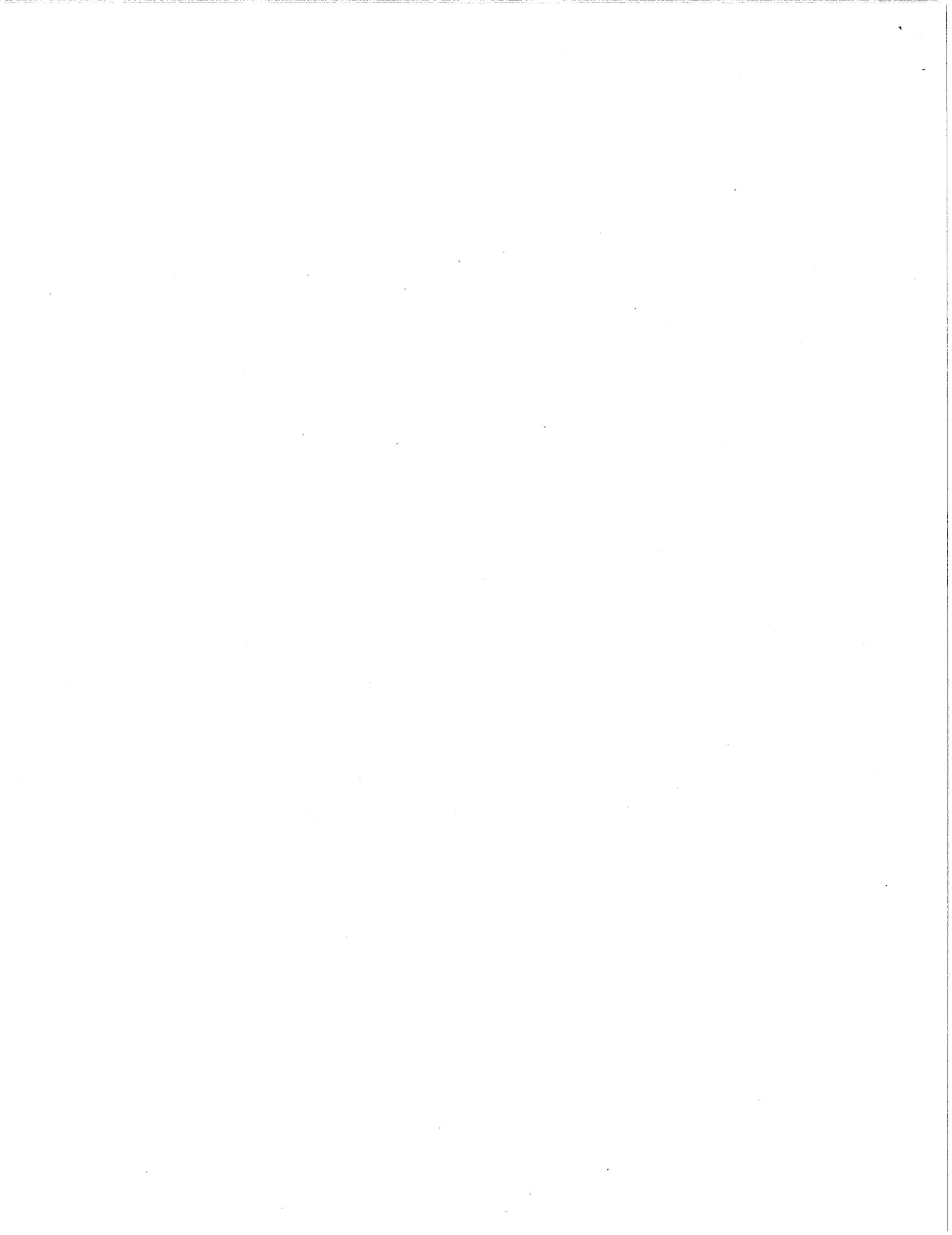
4. Failure to Fully Perform

If the City does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The City shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.



5. Publicity

Any public statements concerning this SEP made by or on behalf of the 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.

6. Clean Texas Program

The City shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the City may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the City under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

