

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2004-1716-WQ-E TCEQ ID: RN103887006 CASE NO.: 21143
RESPONDENT NAME: CITY OF HASKELL DBA CITY OF HASKELL AIRPORT**

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: 333 County Road 210, Haskell, Haskell County</p> <p>TYPE OF OPERATION: Municipal airport</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 March 31, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Water Enforcement Section, MC 169, (512) 239-4493 TCEQ Regional Contact: Mr. Cliff Moore, Abilene Regional Office, MC R-3, (325) 698-6115 Respondent: The Honorable Ken Lane, Mayor of City of Haskell, P. O. Box 1003, Haskell, TX 79521 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:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: February 10, 2004 (investigation) September 24, 2004 (records review)</p> <p>Date of NOE Relating to this Case: March 19, 2004 (NOV) October 3, 2004 (NOE)</p> <p>Background Facts: The EDRP was filed on May 6, 2005. The Respondent filed an Answer on June 1, 2005. The case was referred to SOAH on February 10, 2006. Discovery and settlement negotiations were conducted. A Supplemental Environmental Project ("SEP") request was received on July 25, 2007, and the SEP was approved on August 22, 2007. The Agreed Order was signed on January 23, 2008.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>WQ</p> <p>1. Failed to identify, survey, and certify all non-storm water discharges that are eligible for permit coverage [30 TEX. ADMIN. CODE § 281.25(a)(4); and Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050585, Part III, Section A(3)(a)-(d)].</p> <p>2. Failed to conduct the annual comprehensive site compliance evaluations for calendar years 2002 and 2003 [30 TEX. ADMIN. CODE § 281.25(a)(4); and TPDES Multi-Sector General Permit No. TXR050585, Part III, Section A(7)].</p> <p>3. Failure to monitor, during a storm event, outfalls for numeric effluent limits for hazardous metals for calendar years 2002 and 2003 [30 TEX. ADMIN. CODE § 281.25(a)(4); and TPDES Multi-Sector General Permit No. TXR050585, Part III, Section D(1)].</p> <p>4. Failure to pay past due Above and Underground Storage Tank fees for TCEQ Financial Account Numbers 0004710A and 0004710U [30 TEX. ADMIN. CODE § 334.22(a)].</p>	<p>Total Assessed: \$6,300</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$6,300</p> <p>Total Paid to General Revenue: \$0</p> <p>The Respondent has not paid any of the administrative penalty. The remaining amount of \$6,300 of the administrative penalty shall be conditionally offset by the Respondent's completion of a SEP.</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>Technical Requirements</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, begin conducting annual comprehensive site compliance evaluations of the Facility; and begin monitoring the outfalls for numeric effluent limits for hazardous metals during storm events. 2. Within 30 days, pay all outstanding fees, including any associated penalties and interest. 3. Within 60 days, identify, survey, and certify all non-storm water discharges for permit coverage, inspect/test the storm sewer system for the presence of non-storm water flows, certify the evaluation of the storm water system for non-storm water discharges, and include the certification in the SWP3. 4. Within 75 days, submit written certification of compliance with Ordering Provisions above. 5. The Respondent shall implement and complete a SEP (see SEP Attachment A).



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 17, 2004

DATES

PCW 14-Feb-2005 Screening 21-Oct-2004 Priority Due 19-Jan-2005 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent City of Haskell
 Reg. Ent. Ref. No. RN103887006
 Additional ID No(s). TPDES Multi-Sector General Permit No. TXR050585
 Facility/Site Region 3-Abilene Major/Minor Source Minor Source

CASE INFORMATION

Enf./Case ID No. Case No. 21143 No. of Violations 4
 Docket No. Docket No. 2004-1716-WQ-E Order Type 1660 without deferral
 Case Priority 3 Enf. Coordinator Kent Heath
 Media Program(s) Water Quality EC's Team Enforcement Team 2
 Multi-Media
 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$6,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement Subtotals 2, 3, & 7 \$300

Notes Adjustments due to one NOV issued on March 19, 2004, for the same violations.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes The respondent does not meet the culpability criteria.

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

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

Notes The Respondent is not yet in compliance.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$231	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$680	

SUM OF SUBTOTALS 1-7 Final Subtotal \$6,300

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

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

Notes

Final Penalty Amount \$6,300

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$6,300

DEFERRAL Reduction Adjustment \$0

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

Notes No deferral is recommended because the Respondent received a prior NOV dated March 19, 2004, for the same violations.

PAYABLE PENALTY \$6,300

Screening Date 21-Oct-2004	Docket No. Docket No. 2004-171	PCW
Respondent City of Haskell	Policy Revision 2 (September 2002)	
Case ID No. Case No. 21143	PCW Revision May 17, 2004	
Reg. Ent. Reference No. RN103887006		
Additional ID No(s). TPDES Multi-Sector General Permit No. TXR050585		
Media [Statute] Water Quality		
Enf. Coordinator Kent Heath		
Site Address	333 County Road 210, Haskell, Haskell County	

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>)	1	5%
	Other written NOVs	0	0%
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	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 (<i>number of judgements 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</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	N/A	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	N/A	0%
	Participation in a voluntary pollution reduction program	N/A	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	N/A	0%

Adjustment Percentage (Subtotal 2) 5%

>> **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

Adjustments due to one NOV issued on March 19, 2004, for the same violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 21-Oct-2004	Docket No. Docket No. 2004-171	PCW
Respondent City of Haskell	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. Case No. 21143	<i>PCW Revision May 17, 2004</i>	
Reg. Ent. Reference No. RN103887006		
Additional ID No(s). TPDES Multi-Sector General Permit No. TXR050585		
Media [Statute] Water Quality		
Enf. Coordinator Kent Heath		
Violation Number <input type="text" value="1"/>		
Primary Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4), Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050585, Part III, Section A (3)(a)-(d)	
Secondary Rule Cite(s)		
Violation Description	Failure to identify, survey, and certify all non-storm water discharges that are eligible for permit coverage. Specifically, the storm water pollution prevention plan (SWP3) did not identify all water discharges eligible for coverage, discharge points, and appropriate best management practices (BMP) for each discharge. Also, the separate storm sewer system had not been inspected or tested for the presence of non-storm water flows, and the SWP3 did not include a signed certificate of the evaluation of the storm water system.	
	Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix																								
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td></td> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="text" value="X"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>			Harm					Release	Major	Moderate	Minor			Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>		Potential	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>
		Harm																						
	Release	Major	Moderate	Minor																				
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>																			
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>> Programmatic Matrix																								
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="vertical-align: middle;">Percent <input type="text"/></td> </tr> </table>		Falsification	Major	Moderate	Minor			<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>											
	Falsification	Major	Moderate	Minor																				
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>																			
Matrix Notes	<div style="border: 1px solid black; padding: 5px;"> Failure to identify, survey, and certify all non-storm water discharges could expose human health and the environment to significant amounts of pollutants which would not exceed protective levels for human health and environmental receptors. </div>																							
	Adjustment <input type="text" value="-9,000"/>																							
	Base Penalty Subtotal <input type="text" value="\$1,000"/>																							

Violation Events													
Number of Violation Events	<input type="text" value="4"/>												
mark only one use a small x	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input checked="" type="text" value="X"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="text" value="X"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>
daily	<input type="text"/>												
monthly	<input type="text"/>												
quarterly	<input checked="" type="text" value="X"/>												
semiannual	<input type="text"/>												
annual	<input type="text"/>												
single event	<input type="text"/>												
	Violation Base Penalty <input type="text" value="\$4,000"/>												
	<div style="border: 1px solid black; padding: 5px;"> Four quarterly events are recommended based on documentation of the violation during the February 10, 2004, investigation, to the January 18, 2005, settlement deadline. </div>												

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$42"/>	Violation Final Penalty Total <input type="text" value="\$4,200"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$4,200"/>	

Economic Benefit Worksheet

Respondent City of Haskell
Case ID No. Case No. 21143
Reg. Ent. Reference No. RN103887006
Additional ID No(s). TPDES Multi-Sector General Permit No. TXR050585
Media [Statute] 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
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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	10-Feb-2004	14-Oct-2005	1.7	\$42	n/a	\$42

Notes for DELAYED costs: Estimated cost to identify, survey, and certify all non-storm water discharges. Date required is date of the investigation. Final date is the estimated date of compliance.

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$42

Screening Date	21-Oct-2004	Docket No.	Docket No. 2004-171	PCW
Respondent	City of Haskell	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	Case No. 21143	<i>PCW Revision May 17, 2004</i>		
Reg. Ent. Reference No.	RN103887006			
Additional ID No(s).	TPDES Multi-Sector General Permit No. TXR050585			
Media [Statute]	Water Quality			
Enf. Coordinator	Kent Heath			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 281.25(a)(4), Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050585, Part III, Section A(7)"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to conduct the annual comprehensive site compliance evaluations for calendar years 2002 and 2003."/>			
Base Penalty				<input type="text" value="\$10,000"/>

>> **Environmental, Property and Human Health Matrix**

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
				Percent <input type="text" value="5%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Matrix Notes	<input type="text" value="Failure to conduct the annual comprehensive site compliance evaluations could expose human health and the environment to insignificant amount of pollutants which would not exceed protective levels for human health and environmental receptors."/>				
					Adjustment <input type="text" value="-\$9,500"/>

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
	<i>monthly</i>	<input type="text"/>	
	<i>quarterly</i>	<input type="text"/>	
	<i>semiannual</i>	<input type="text"/>	
	<i>annual</i>	<input type="text"/>	
	<i>single event</i>	<input checked="" type="checkbox"/>	

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$105"/>	Violation Final Penalty Total <input type="text" value="\$1,050"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,050"/>	

Economic Benefit Worksheet

Respondent City of Haskell
 Case ID No. Case No. 21143
 Reg. Ent. Reference No. RN103887006
 Additional ID No(s). TPDES Multi-Sector General Permit No. TXR050585
 Media [Statute] Water Quality
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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	\$100	31-Dec-2002	31-Dec-2003	1.0	\$5	\$100	\$105
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

Estimated cost to conduct the annual comprehensive site compliance evaluations. Date required is the calendar year due date to conduct the site compliance evaluation for 2002. Final date is the calendar year due date to conduct the site compliance evaluation for 2003.

Approx. Cost of Compliance \$100

TOTAL \$105

Screening Date 21-Oct-2004	Docket No. Docket No. 2004-171	PCW
Respondent City of Haskell		<i>Policy Revision 2 (September 2002)</i>
Case ID No. Case No. 21143		<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No. RN103887006		
Additional ID No(s). TPDES Multi-Sector General Permit No. TXR050585		
Media [Statute] Water Quality		
Enf. Coordinator Kent Heath		
Violation Number <input type="text" value="3"/>		
Primary Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4), Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050585, Part III, Section D(1)	
Secondary Rule Cite(s)		
Violation Description	Failure to monitor, during a storm event, outfalls for numeric effluent limits for hazardous metals for calendar years 2002 and 2003.	
	Base Penalty	\$10,000

>> **Environmental, Property and Human Health Matrix**

	Harm				
	Release	Major	Moderate	Minor	
OR	Actual				Percent <input type="text" value="5%"/>
	Potential			X	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent <input type="text"/>
Matrix Notes	Failure to monitor outfalls for numeric effluent limits could expose human health and the environment to insignificant amounts of pollutants which would not exceed protective levels for human health and environmental receptors.				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	<table border="0" style="width:100%"> <tr><td style="text-align: center;">daily</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="text-align: center;">monthly</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="text-align: center;">annual</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="text-align: center;">single event</td><td style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">X</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	X	Violation Base Penalty <input type="text" value="\$1,000"/>
daily														
monthly														
quarterly														
semiannual														
annual														
single event	X													

Two single events (one per each year) are recommended based on documentation of the violation during the February 10, 2004, investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$84"/>	Violation Final Penalty Total <input type="text" value="\$1,050"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,050"/>	

Economic Benefit Worksheet

Respondent: City of Haskell
 Case ID No. Case No. 21143
 Reg. Ent. Reference No. RN103887006
 Additional ID No(s). TPDES Multi-Sector General Permit No. TXR050585
 Media [Statute] 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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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	\$80	31-Dec-2002	31-Dec-2003	1.0	\$4	\$80	\$84
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

Estimated cost to monitor outfalls for numeric effluent limits. Date required is the calendar year due date to monitor outfalls for 2002. Final date is the calendar year due date to monitor outfalls for 2003.

Approx. Cost of Compliance

TOTAL

Screening Date 21-Oct-2004	Docket No. Docket No. 2004-171	PCW
Respondent City of Haskell		<i>Policy Revision 2 (September 2002)</i>
Case ID No. Case No. 21143		<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No. RN103887006		
Additional ID No(s): TPDES Multi-Sector General Permit No. TXR050585		
Media [Statute] Water Quality		
Enf. Coordinator Kent Heath		
Violation Number <input type="text" value="4"/>		
Primary Rule Cite(s)	<input type="text" value="Tex. Admin. Code § 334.22(a)"/>	
Secondary Rule Cite(s)	<input type="text" value="Tex. Water Code § 5.702"/>	
Violation Description	<input type="text" value="Failure to pay past due Above and Underground Storage Tank fees for Financial Account Nos. 0004710A and 0004710U."/>	
	Base Penalty	<input type="text" value="\$10,000"/>

>> **Environmental, Property and Human Health Matrix**

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Matrix Notes	<input type="text"/>				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input type="text"/>

Violation Base Penalty

No administrative penalty is calculated for this violation as penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$0"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$0"/>	

Economic Benefit Worksheet

Respondent: City of Haskell
 Case ID No. Case No. 21143
 Reg. Ent. Reference No. RN103887006
 Additional ID No(s): TPDES Multi-Sector General Permit No. TXR050585
 Media [Statute] Water Quality
 Violation No. 4

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)				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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs N/A

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 N/A

Approx. Cost of Compliance \$0 TOTAL \$0

1. 09/24/2004 (335520)
2. 03/18/2004 (266247)
3. 09/27/2004 (335567)
4. 04/26/2004 (270456)

E. Written notices of violation (NOV)

1. Date: 03/19/2004 Self-reported? Yes No
- Violation Citation 1: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) Permit IA Classification: Minor
- Violation Description: Failure to sign and certify the Storm Water Pollution Plan (SWP3) according to Title 30 TAC Chapter 305.125.
- Violation Citation 2: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) Permit IA Classification: Minor
- Violation Description: Failure to identify specific individuals comprising a storm water pollution prevention team along with their associated responsibilities.
- Violation Citation 3: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) Permit IA Classification: Minor
- Violation Description: Failure to identify, survey, and certify all non-storm water discharges that are eligible for permit coverage under the TPDES MSGP.
- Violation Citation 4: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) Permit IA Classification: Minor
- Violation Description: Failure to include a narrative description describing all activities and potential sources of pollutants that may reasonably be expected to add pollutants to storm water.
- Violation Citation 5: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) Permit IA Classification: Moderate
- Violation Description: Failure to conduct the required annual comprehensive site compliance evaluations for the years of 2002 and 2003.
- Violation Citation 6: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) Permit IA Classification: Moderate
- Violation Description: Failure to monitor for numeric effluent limitations (hazardous metals for the years 2002 and 2003 prior to December 31st each year.
- Violation Citation 7: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) Permit IA Classification: Minor
- Violation Description: Failure to conduct annual training

F. Environmental audits.

1. Notice of Intent Date: N/A

Disclosure Date:

Violation Citation 1: Classification:

Violation Description:

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

State: N/A

Site Name:

Location:

Type of Action:

Effective Date:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST CITY OF HASKELL DBA
CITY OF HASKELL AIRPORT;
RN103887006

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2004-1716-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Haskell dba City of Haskell Airport ("the City") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a municipal airport located at 333 County Road 210, Haskell, Haskell County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
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 October 3, 2004.
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 three hundred dollars (\$6,300.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six thousand three hundred dollars (\$6,300.00) of the administrative penalty shall be conditionally offset by the City's completion of a

Supplemental Environmental Project ("SEP") as 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.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

The City is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 281.25(a)(4); and Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050585, Part III, Section A(3)(a)-(d), by failing to identify, survey, and certify all non-storm water discharges that are eligible for permit coverage. Specifically, the storm water pollution prevention plan (SWP3) did not identify all water discharges eligible for coverage, discharge points, and appropriate best management practices ("BMPs") for each discharge. Also, the separate storm sewer system had not been inspected or tested for the presence of non-storm water flows, and the SWP3 did not include a signed certificate of the evaluation of the storm water system, as documented during an investigation on February 10, 2004.
2. 30 TEX. ADMIN. CODE § 281.25(a)(4); and TPDES Multi-Sector General Permit No. TXR050585, Part III, Section A(7), by failing to conduct the annual comprehensive site compliance evaluations for calendar years 2002 and 2003, as documented during an investigation on February 10, 2004.

3. 30 TEX. ADMIN. CODE § 281.25(a)(4); and TPDES Multi-Sector General Permit No. TXR050585, Part III, Section D(1), by failing to monitor, during a storm event; outfalls for numeric effluent limits for hazardous metals for calendar years 2002 and 2003, as documented during an investigation on February 10, 2004.
4. 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, by failing to pay past due Above and Underground Storage Tank fees for TCEQ Financial Account Numbers 0004710A and 0004710U, as documented during a record review conducted on September 24, 2004.

III. DENIALS

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

IV. ORDER

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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Haskell dba City of Haskell Airport, Docket No. 2004-1716-WQ-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, six thousand three hundred dollars (\$6,300.00) of the assessed administrative penalty shall be offset with the condition that the City implements the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion administrative penalty assessed shall be discharged upon final completion of all provisions of Attachment A.
3. The City shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order, the City shall begin

conducting annual comprehensive site compliance evaluations of the Facility, as required by TPDES Multi-Sector General Permit No. TXR050585, Part III, Section A(7);

- b. Immediately after the effective date of this Agreed Order, the City shall begin monitoring the outfalls for numeric effluent limits for hazardous metals during storm events, as required by TPDES Multi-Sector General Permit No. TXR050585, Part III, Section D(1);
- c. Within 30 days after the effective date of this Agreed Order, the City shall pay all outstanding fees, including any associated penalties and interest with the notation, "City of Haskell dba City of Haskell Airport, TCEQ Financial Administration Account Nos. 0004710 and 0004710U" to the address in Ordering Provision No. 1.;
- d. Within 60 days after the effective date of this Agreed Order, the City shall identify, survey, and certify all non-storm water discharges for permit coverage, inspect/test the storm sewer system for the presence of non-storm water flows, certify the evaluation of the storm water system for non-storm water discharges, and include the certification in the SWP3;
- e. Within 75 days after the effective date of this Agreed Order, the City shall submit written certification of compliance with Ordering Provision No. 3.a. through 3.d; and
- f. The certification required by Ordering Provision No. 3.e 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 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- with a copy to:

Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

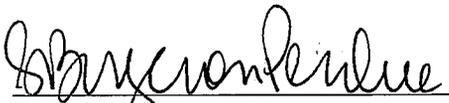
4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order 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

2/21/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 my failure to comply with the Ordering Provisions in this order and/or the City of Haskell dba City of Haskell Airport's failure to timely pay the penalty amount, may result in:

- A negative impact on the City of Haskell dba City of Haskell Airport's compliance history;
- Greater scrutiny of any permit applications submitted by the City of Haskell dba City of Haskell Airport;
- 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 against the City of Haskell dba City of Haskell Airport;
- Automatic referral to the Attorney General's Office of any future enforcement actions against the City of Haskell dba City of Haskell Airport; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.



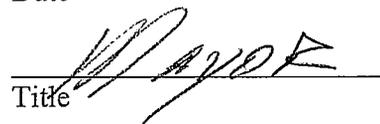
Signature

1-23-2008

Date

Ken Lane

Name (Printed or typed)
Authorized representative of
City of Haskell dba City of Haskell Airport



Title

Attachment A
Docket Number: 2004-1716-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Haskell dba City of Haskell Airport
Penalty Amount: Six Thousand Three Hundred Dollars (\$6,300)
SEP Amount: Six Thousand Three Hundred Dollars (\$6,300)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Wastewater Treatment Assistance*
Location of SEP: Haskell County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent 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 Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used by the *Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")* for the Wastewater Treatment Assistance program in Haskell County. In the alternative, if all SEP funds are not expended on the clean up of illegal trash dumps, the funds will be spent on the Abandoned Tire Site Clean-Up, Unauthorized Trash Dump Clean-Up, or other pre-approved SEP project in Haskell County. SEP monies will pay for the labor and disposal costs associated with assistance to low-income residents with failing on site wastewater systems, or for proper clean up and disposal of wastes, debris, or abandoned tires, plugging of abandoned wells, or antifreeze recycling.

The projects will be administered in accordance with 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

The wastewater portion of 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 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.

The illegal dump and abandoned tire clean up portions of this project would provide a discernable 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 illegally dumped tires catch fire.

The plugging of abandoned wells would provide an environmental benefit by reducing the potential for contamination of groundwater and aquifers from pollutants that may be dumped into the well opening.

Recycling of antifreeze would provide an environmental benefit by providing a convenient disposal method for used antifreeze. Antifreeze (ethylene glycol) is a common coolant for automobile engines. Ingestion of antifreeze and its derivatives may lead to kidney failure and harmful effects to the liver. Exposure to ethylene glycol may cause eye and skin irritation. If improperly disposed in the environment, ethylene glycol may be ingested by domestic animals or wildlife. Ingestion may be fatal to small animals. A sudden release of ethylene / propylene glycol into a waterway can produce adverse impacts upon fresh water and marine environments. Glycol degradation in the environment has a high oxygen demand and as a result threatens or negatively impacts aquatic life. Ammonia gas is also released to the environment by the degradation of glycols.

C. Minimum Expenditure

The Respondent 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 Respondent shall contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and
Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent 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 Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the Respondent 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.

In the event of incomplete performance, the Respondent shall submit a check to "Texas Commission on Environmental Quality" for any remaining amount due with the notation "SEP Refund" and the docket number of the case, and mail it to:

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

5. 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.

6. Clean Texas Program

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