EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0548-MWD-E **TCEQ ID:** RN101918472 **CASE NO.:** 35642

RESPONDENT NAME: City of Walnut Springs

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Walnut Springs, located approximately 1,500 feet east of the crossing of State Highway 144 over Steeple Creek which includes a collection system with a manhole located in Katy Park, Walnut Springs, Bosque County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: There was one complaint on January 7, 2008, alleging that sewage had overflowed into Steeple Creek from a manhole located in Katy Park. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received but the complainant has not expressed the desire to protest this action or speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on November 3, 2008. No comments were received.

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: The Honorable Benny Damron, Mayor, City of Walnut Springs, P.O. Box 272, Walnut Springs, Texas 76690
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: X Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date of Complaints Relating to this Case:** January 7, 2008 **Date of Investigation Relating to this Case:** January 9, 2008 **Date of NOE Relating to this Case:** February 22, 2008 (NOE) **Background Facts:** This was a complaint investigation. **WATER** Failure to prevent the unauthorized discharge of wastewater into or adjacent to waters in the state. Specifically, the investigator observed grease and sewer debris around the base of the manhole. The ground was still wet along the discharge path that led directly into Steeple Creek [30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System Permit No. WQ0013436001, Standard Provisions No. 2.b].	**Total Assessed:** $1,250 **Total Deferred:** $250 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $1,000 **Total Paid to General Revenue:** $0 **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** X **Average** __ **Poor** **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A). 2) The Order will require the Respondent to: a) Within 30 days after the effective date of this Agreed Order, remove and properly dispose of the grease and sewer debris around the manhole; b) Within 30 days after the effective date of this Agreed Order, evaluate the causes of the overflows from the manhole and identify the necessary corrective actions to prevent recurrence; c) Within 60 days after the effective date of this Agreed Order, complete the corrective actions identified in Ordering Provision No. 2.b to prevent recurrence of overflows at the manhole; and d) Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a through 2.c.

Additional ID No(s).: WQ0013436001

Attachment A
Docket Number: 2008-0548-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Walnut Springs ("the City")**
Payable Penalty Amount:	**One Thousand Dollars ($1,000)**
SEP Amount:	**One Thousand Dollars ($1,000)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Bosque 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 coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. 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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

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.

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	3-Mar-2008				
PCW	31-Mar-2008	Screening	31-Mar-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Walnut Springs		
Reg. Ent. Ref. No.	RN101918472		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35642	No. of Violations	1
Docket No.	2008-0548-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* — $1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 25% Enhancement — *Subtotals 2, 3, & 7* — $250

Notes: The Respondent was issued one Notice of Violation for the same or similar violation and was issued an order with denial of liability language.

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 x)

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

0% Enhancement* — *Subtotal 6* — $0

Total EB Amounts	$61
Approx. Cost of Compliance	$1,500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* — $1,250

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0% — *Adjustment* — $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount — $1,250

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* — $1,250

DEFERRAL — 20% Reduction — *Adjustment* — -$250

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY — $1,000

Screening Date 31-Mar-2008 **Docket No.** 2008-0548-MWD-E **PCW**

Respondent City of Walnut Springs

Case ID No. 35642

Reg. Ent. Reference No. RN101918472

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued one Notice of Violation for the same or similar violation and was issued an order with denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 31-Mar-2008 **Docket No.** 2008-0548-MWD-E **PCW**

Respondent City of Walnut Springs *Policy Revision 2 (September 2002)*

Case ID No. 35642 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN101918472

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(4), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System Permit No. WQ0013436001, Standard Provisions No. 2.b

Violation Description Failed to prevent the unauthorized discharge of wastewater into or adjacent to waters in the state, as documented during the January 9, 2008 investigation. Specifically, the investigator observed grease and sewer debris around the base of the manhole. The ground was still wet along the discharge path that led directly into Steeple Creek.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 82 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the January 9, 2008 investigation date to the March 31, 2008 screening date.

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $61

Violation Final Penalty Total $1,250

This violation Final Assessed Penalty (adjusted for limits) $1,250

Economic Benefit Worksheet

Respondent City of Walnut Springs
Case ID No. 35642
Reg. Ent. Reference No. RN101918472
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)	$1,500	9-Jan-2008	1-Nov-2008	0.8	$61	n/a	$61
Notes for DELAYED costs	Estimated cost to make necessary repairs, conduct additional training, and clean and disinfect the affected areas. Date Required is the investigation date and Final Date is the anticipated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $1,500

TOTAL $61

Compliance History

Customer/Respondent/Owner-Operator:	CN600625776	City of Walnut Springs	Classification: AVERAGE	Rating: 13.50
Regulated Entity:	RN101918472	CITY OF WALNUT SPRINGS	Classification: AVERAGE	Site Rating: 24.00
ID Number(s):	WASTEWATER	PERMIT	WQ0013436001	
	WASTEWATER	PERMIT	TX0128945	
	WASTEWATER LICENSING	LICENSE	WQ0013436001	

Location: Located approximately 1,500 feet east of the crossing of State Highway 144 over Steeple Creek, which includes a collection system with a manhole located in Katy Park, in Walnut Springs, Bosque County, Texas.

Rating Date: September 01 07
Repeat Violator: NO

TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: March 19, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 19, 2003 to March 19, 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: 12/30/2005 ADMINORDER 2005-0819-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: Standard Provision (2)(a), Pg. 19 PERMIT
Description: Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the State.

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 04/06/2005 (374945)

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

Date: **11/12/2004** (339849)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT Standard Provisions, No. 2(b) Pg. 19
Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

F.	Environmental audits.	N/A
G.	Type of environmental management systems (EMSs).	N/A
H.	Voluntary on-site compliance assessment dates.	N/A
I.	Participation in a voluntary pollution reduction program.	N/A
J.	Early compliance.	N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF WALNUT SPRINGS	§	
RN101918472	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0548-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Walnut Springs ("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 approximately 1,500 feet east of the crossing of State Highway 144 over Steeple Creek which includes a collection system with a manhole located in Katy Park, in Walnut Springs, Bosque County, Texas ("the Site").

2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.

4. The City received notice of the violations alleged in Section II ("Allegations") on or about February 27, 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 One Thousand Two Hundred Fifty Dollars ($1,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Dollars ($1,000) of the administrative penalty shall be conditionally offset by the

Respondent's completion of a Supplemental Environmental Project ("SEP") and Two Hundred Fifty Dollars ($250) 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 may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the City is alleged to have failed to prevent the unauthorized discharge of wastewater into or adjacent to waters in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013436001, Standard Provisions No. 2.b, as documented during the January 9, 2008 investigation. Specifically, the investigator observed grease and sewer debris around the base of the manhole. The ground was still wet along the discharge path that led directly into Steele Creek.

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 Walnut Springs, Docket No. 2008-0548-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, One Thousand Dollars ($1,000) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the City shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, remove and properly dispose of the grease and sewer debris around the manhole;

   b. Within 30 days after the effective date of this Agreed Order, evaluate the causes of the overflows from the manhole and identify the necessary corrective actions to prevent recurrence;

   c. Within 60 days after the effective date of this Agreed Order, complete the corrective actions identified in Ordering Provision No. 3.b to prevent a recurrence of overflows at the manhole; and

   d. Within 75 days after the effective date of the Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a through 3.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

      The certification shall be submitted to:

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

      with a copy to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

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

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 10/16/2008
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

_____ 07-07-08
Signature Date

BENNY O'BANION _____ MAYOR
Name (Printed or typed) Title
Authorized Representative of
City of Walnut Springs

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: 2008-0548-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Walnut Springs ("the City")**
Payable Penalty Amount:	**One Thousand Dollars ($1,000)**
SEP Amount:	**One Thousand Dollars ($1,000)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Bosque 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 coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. 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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

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.