EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0689-MWD-E **TCEQ ID:** RN101920452 **CASE NO.:** 35775

RESPONDENT NAME: City of Burkburnett

ORDER TYPE:		
__1660 AGREED ORDER	X 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 Burkburnett Wastewater Treatment Facility, located on the east side of Kelly Street, just north of Third Street (State Highway 240), Burkburnett, Wichita County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: A complaint was received March 17, 2008, regarding a discharge from the wastewater treatment facility to a tributary of the Red River Basin. 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 a desire to protest this action or to speak at Agenda.

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

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable Carl Law, Mayor, City of Burkburnett, 501 Shephard Road, Burkburnett, Texas 76354
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(s) of Complaints Relating to this Case:** March 17, 2008 **Date of Investigation Relating to this Case:** March 18, 2008 **Date of NOV/NOE Relating to this Case:** April 18, 2008 (NOE) **Background Facts:** This was a complaint investigation. **WATER** 1) Failure to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions [30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010002001, Operational Requirements No. 1]. 2) Failure to comply with the effluent permit limits for total suspended solids and fecal coliform bacteria [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010002001, Effluent Limitations & Monitoring Requirements No. 1]. 3) Failure to prevent an estimated 775,000 gallon discharge of domestic sludge [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010002001, Effluent Limitations & Monitoring Requirements No. 4, and Permit Conditions 2.d.].	**Total Assessed:** $23,800 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $23,800 **Total Paid (Paid) to General Revenue:** $0 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** Environmental receptors have been exposed to pollutants which exceed levels that are protective.	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. Repaired the foot valves for the return activated sludge pumps on March 18, 2008; b. Impounded Wild Horse Creek for 3,400 feet downstream from the outfall to a low water crossing on March 19, 2008 to contain the migration of the domestic sludge; c. Between the dates of March 20 and March 26, 2008: i. Diesel pumps were used to dewater the creek bed; ii. A side-track-hoe was used to skim the sludge from the soil in the creek bed; and iii. The sludge removed from the creek bed was taken to the drying bed of the wastewater treatment plant. d. Samples taken at four points along Wild Horse Creek on March 27, 2008 determined that no sewage was present. **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 also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010002001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Additional ID No(s).: TPDES Permit No. WQ0010002001

Attachment A
Docket Number: 2008-0689-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Burkburnett**
Payable Penalty Amount:	**Twenty-Three Thousand Eight Hundred Dollars ($23,800)**
SEP Amount:	**Twenty-Three Thousand Eight Hundred Dollars ($23,800)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up**
Location of SEP:	**Wichita 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 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, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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 must 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.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802

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:

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 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.

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 Respondent 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 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 an SEP for the Respondent 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 March 8, 2008*

TCEQ

DATES					
Assigned	22-Apr-2008				
PCW	23-Apr-2008	Screening	23-Apr-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Burkburnett		
Reg. Ent. Ref. No.	RN101920452		
Facility/Site Region	3-Abilene	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	35775	No. of Violations	3
Docket No.	2008-0689-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$17,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 39% Enhancement — *Subtotals 2, 3, & 7* **$6,825**

Notes: An enhancement is recommended for having seven NOVs with same or similar violations and two NOVs with non-similar violations in the past five years.

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**

**Capped at the Total EB $ Amount*

Total EB Amounts	$244
Approx. Cost of Compliance	$163,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$24,325**

OTHER FACTORS AS JUSTICE MAY REQUIRE — -3% — *Adjustment* **-$525**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent double-enhancement of the penalty amount for same violations that were not self-reported.

Final Penalty Amount **$23,800**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$23,800**

DEFERRAL — 0% 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 for Findings Orders.

PAYABLE PENALTY **$23,800**

Screening Date 23-Apr-2008 **Docket No.** 2008-0689-MWD-E **PCW**

Respondent City of Burkburnett *Policy Revision 2 (September 2002)*

Case ID No. 35775 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101920452

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

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*)	7	35%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 39%

>> 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

An enhancement is recommended for having seven NOVs with same or similar violations and two NOVs with non-similar violations in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 39%

Screening Date 23-Apr-2008 **Docket No.** 2008-0689-MWD-E **PCW**

Respondent City of Burkburnett *Policy Revision 2 (September 2002)*

Case ID No. 35775 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101920452

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5), and TPDES Permit No. WQ0010002001 Operational Requirements No. 1

Violation Description Failed to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions. Specifically, there were concurrent failures of all four return activated sludge ("RAS") pumps, a large amount of solids were observed on the weirs of clarifier No. 4, and bulking, floating, and suspended solids were passing through the ultra-violet ("UV") disinfection system.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 — 1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $3,400

This violation Final Assessed Penalty (adjusted for limits) $3,400

Economic Benefit Worksheet

Respondent City of Burkburnett
Case ID No. 35775
Reg. Ent. Reference No. RN101920452
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$2,500	18-Mar-2008	18-Mar-2008	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: Estimated cost to rebuild the coupling between the motors and pumps, and perform preventative maintenance of the return activated sludge ("RAS") pumps. The Date Required was the date of the investigation. The cost of the removal of spilled solids from around the facility and to disinfect the affected areas is contained in the remediation spill cost. The Final Date is the date of compliance.

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance: $2,500

TOTAL: $0

Screening Date 23-Apr-2008 **Docket No.** 2008-0689-MWD-E **PCW**

Respondent City of Burkburnett *Policy Revision 2 (September 2002)*

Case ID No. 35775 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101920452

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0010002001 Effluent Limitations & Monitoring Requirements No. 1

Violation Description Failed to comply with the effluent permit limits for total suspended solids ("TSS") and fecal coliform bacteria ("FCB"). Specifically, the grab sample collected during the investigation indicated a TSS of 141 milligrams per liter ("mg/L") (permit limit is 60 mg/L), and a concentration of FCB of 10,400 colony forming units per 100 milliliters ("cfu/100 ml") (permit limit is 800 cfu/100 ml).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events 1 — 1 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $5,000

One monthly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $25

Statutory Limit Test

Violation Final Penalty Total $6,800

This violation Final Assessed Penalty (adjusted for limits) $6,800

Economic Benefit Worksheet

Respondent City of Burkburnett
Case ID No. 35775
Reg. Ent. Reference No. RN101920452
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$500	18-Mar-2008	1-Dec-2008	0.7	$1	$24	$25
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: Estimated cost to install a filter on the UV system. The Date Required was the date of the investigation. The Final Date is the expected 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: NA

Approx. Cost of Compliance $500

TOTAL $25

Screening Date 23-Apr-2008 **Docket No.** 2008-0689-MWD-E **PCW**

Respondent City of Burkburnett *Policy Revision 2 (September 2002)*

Case ID No. 35775 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101920452

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0010002001, Effluent Limitations & Monitoring Requirements No. 4, and Permit Conditions 2.d.

Violation Description Failed to prevent an estimated 775,000 gallon discharge of domestic sludge that occurred on March 16, 2008. Specifically, partially treated wastewater was discharged into Wild Horse Creek, resulting in the killing of eight fish per the Texas Park and Wildlife Department report dated March 22, 2008.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual	x		
Potential			

Percent 100%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment $0

$10,000

Violation Events

Number of Violation Events 1 — 10 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $10,000

One monthly event is recommended from the date of the discharge on March 16, 2008, to the date clean-up operations were completed on March 26, 2008.

Economic Benefit (EB) for this violation

Estimated EB Amount $219

Statutory Limit Test

Violation Final Penalty Total $13,600

This violation Final Assessed Penalty (adjusted for limits) $13,600

Economic Benefit Worksheet

Respondent City of Burkburnett
Case ID No. 35775
Reg. Ent. Reference No. RN101920452
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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	$160,000	16-Mar-2008	26-Mar-2008	0.0	$219	n/a	$219
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	The estimated cost to remove the sludge and remediate the spill. The Date Required is the date of the unauthorized discharge. The Final Date is the date that the remediation was completed.						
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	NA						

Approx. Cost of Compliance: $160,000

TOTAL: $219

Compliance History

Customer/Respondent/Owner-Operator:	CN600249627	City of Burkburnett	Classification: AVERAGE	Rating: 2.50
Regulated Entity:	RN101920452	CITY OF BURKBURNETT	Classification: AVERAGE	Site Rating: 0.98

ID Number(s):	WASTEWATER	PERMIT	WQ0010002001
	WASTEWATER	PERMIT	TPDES0026956
	WASTEWATER	PERMIT	TX0026956
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	51007
	WASTEWATER LICENSING	LICENSE	WQ0010002001

Location: LOCATED ON THE EAST SIDE OF KELLY STREET, JUST NORTH OF THIRD STREET (STATE HIGHWAY 240) IN THE CITY OF BURKBURNETT IN WICHITA COUNTY, TEXAS Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: April 22, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 22, 2003 to April 22, 2008

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

Name: J. Craig Fleming Phone: (512) 239-5806

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/22/2003	(174790)
2	05/22/2003	(174794)
3	06/23/2003	(174798)
4	08/19/2003	(302445)
5	08/19/2003	(302447)
6	09/17/2003	(302449)
7	10/16/2003	(302451)
8	11/17/2003	(302452)
9	12/11/2003	(302453)
10	01/20/2004	(302454)
11	02/04/2004	(261845)
12	02/11/2004	(302435)
13	03/17/2004	(302438)
14	04/22/2004	(302439)
15	05/17/2004	(302441)
16	06/10/2004	(302443)
17	06/15/2004	(275841)
18	07/19/2004	(354908)

19 08/16/2004 (354909)
20 09/09/2004 (354910)
21 09/09/2004 (354913)
22 10/20/2004 (354911)
23 11/05/2004 (354912)
24 12/20/2004 (383418)
25 02/11/2005 (383417)
26 03/22/2005 (421249)
27 04/11/2005 (421250)
28 05/19/2005 (421251)
29 06/16/2005 (421252)
30 07/18/2005 (442228)
31 08/12/2005 (442229)
32 09/12/2005 (442230)
33 10/11/2005 (471187)
34 11/09/2005 (471188)
35 12/12/2005 (471189)
36 01/11/2006 (471190)
37 02/16/2006 (471184)
38 03/13/2006 (471185)
39 04/10/2006 (471186)
40 05/11/2006 (462028)
41 05/11/2006 (499959)
42 05/11/2006 (499961)
43 06/12/2006 (499960)
44 08/11/2006 (522052)
45 09/13/2006 (522053)
46 10/19/2006 (546718)
47 10/19/2006 (546721)
48 11/16/2006 (546719)
49 12/13/2006 (546720)
50 02/23/2007 (578980)
51 02/23/2007 (578985)
52 03/21/2007 (578981)
53 04/30/2007 (578982)
54 05/16/2007 (578983)
55 06/15/2007 (578984)
56 08/22/2007 (602663)
57 08/22/2007 (602664)
58 08/22/2007 (602665)
59 09/14/2007 (620918)
60 11/21/2007 (620919)
61 02/28/2008 (618432)

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

Date 05/31/2003 (174798)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2003 (302449)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 02/04/2004 (261845)
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT WQ0010002-001
Description: Failure to maintain the ventilation fan located in the chlorination building.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 210, SubChapter B 210.22(e)

Rqmt Prov: PERMIT WQ0010002-001
Description: Failure to properly report effluent quality data on the discharge monitoring
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010002-001
Description: Failure to report a monthly geometric mean for fecal coliform on the discharge monitoring reports.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT WQ0010002-001
Description: Failure to maintain the synthetic liner at the reclaimed water holding pond at the City golf course.

Date 05/31/2006 (499960)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 02/29/2008 (618432)
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(c)
Rqmt Prov: PERMIT WQ0010002001
Description: Failure to measure the fecal coliform bacteria level with a reagent in acceptable condition.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.6
30 TAC Chapter 319, SubChapter A 319.7(a)(1)
30 TAC Chapter 319, SubChapter A 319.7(a)(2)
30 TAC Chapter 319, SubChapter A 319.7(a)(3)
30 TAC Chapter 319, SubChapter A 319.7(a)(4)
30 TAC Chapter 319, SubChapter A 319.7(a)(5)
30 TAC Chapter 319, SubChapter A 319.7(c)
Rqmt Prov: PERMIT WQ0010002001
Description: Failure to provide calibration certifications for the thermometers used at the WWTP.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)
Rqmt Prov: PERMIT WQ0010002001
Description: Failure to measure the effluent flow with an operable flow measuring device.

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

Description: Failure to maintain the reclaimed water storage pond liner located at the City's golf course to prevent any discharge of reclaimed water.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 210, SubChapter B 210.25(b)(1)

Description: Failure to provide "Reclaimed Water, Do Not Drink" signs in any areas where reclaimed water is stored or where there are hose bibs and faucets.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to meet the analytical hold time for pH analysis.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)

Rqmt Prov: PERMIT WQ0010002-001

Description: Failure to perform fecal coliform analysis in accordance with latest edition of "Standard Methods for the Examination of Water and Wastewater".

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010002-001

Description: Failure to correctly calculate the 7-day average as specified by the water quality permit.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010002-001

Description: Failure to correctly report the ammonia nitrogen daily maximum on the DMR.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 210, SubChapter C 210.33(1)

Description: Failure to provide reclaimed water to the user that meets the minimum water quality limits for Type I water.

Date 03/31/2004 (302439)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 05/31/2005 (421252)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 06/30/2005 (442228)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 05/12/2006 (462028)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010002-001

Description: Failure to conduct a TCLP test on the sludge on an annual basis.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010002-001

Description: Failure to meet permit effluent limits for TSS and ammonia nitrogen.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010002-001

Description: Failure to properly composite effluent samples for biomonitoring tests.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.9(a)

Description: Failure to properly collect a flow-weighted, composite effluent sample.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF BURKBURNETT	§	
RN101920452	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0689-MWD-E

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 Burkburnett ("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 presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment facility located on the east side of Kelly Street, just north of Third Street (State Highway 240), in Burkburnett, in Wichita County, Texas (the "Facility").

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

3. During an investigation on March 18, 2008, TCEQ staff observed that there were concurrent failures to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions. Specifically, there were concurrent failures of all four return activated sludge ("RAS") pumps, a large amount of solids was observed on the weirs of clarifier No. 4, and bulking, floating, and suspended solids were passing through the ultra-violet ("UV") disinfection system.

4. During an investigation on March 18, 2008, TCEQ staff determined that the City did not comply with the effluent permit limits for total suspended solids ("TSS") and fecal coliform bacteria ("FCB"). Specifically, the grab sample collected during the investigation indicated a TSS of 141 milligrams per liter ("mg/L") (the permit limit is 60 mg/L), and a concentration of FCB of 10,400 colony forming units per 100 milliliters ("cfu/100 ml") (the permit limit is 800 cfu/100 ml).

5. During an investigation on March 18, 2008, TCEQ staff documented that the City did not prevent an estimated 775,000 gallon discharge of domestic sludge. Specifically, partially treated wastewater was discharged into Wild Horse Creek, resulting in the killing of eight fish per the Texas Park & Wildlife Department's report dated March 22, 2008.

6. The City received notice of the violations on April 23, 2008.

7. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:

   a. Repaired the foot valves for the return activated sludge pumps on March 18, 2008;

   b. Impounded Wild Horse Creek for 3,400 feet downstream from the outfall to a low water crossing on March 19, 2008 to contain the migration of the domestic sludge;

   c. Between the dates of March 20 and March 26, 2008:

      i. Diesel pumps were used to dewater the creek bed;

      ii. A side-track-hoe was used to skim the sludge from the soil in the creek bed; and

      iii. The sludge removed from the creek bed was taken to the drying bed of the wastewater treatment plant.

   d. Samples taken at four points along Wild Horse Creek on March 27, 2008 determined that no sewage was present.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the City failed to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions, in violation of 30 TEX. ADMIN. CODE § 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010002001, Operational Requirements No. 1.

3. As evidenced by Findings of Fact No. 4, the City failed to comply with the effluent permit limits for TSS and FCB, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010002001, Effluent Limitations & Monitoring Requirements No. 1.

4. As evidenced by Findings of Fact No. 5, the City failed to prevent an estimated 775,000 gallon discharge of domestic sludge, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010002001, Effluent Limitations & Monitoring Requirements No. 4, and Permit Conditions 2.d.

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of Twenty-Three Thousand Eight Hundred Dollars ($23,800) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Twenty-Three Thousand Eight Hundred Dollars ($23,800) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Twenty-Three Thousand Eight Hundred Dollars ($23,800) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Burkburnett, Docket No. 2008-0689-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 Conclusions of Law, Paragraph 6 above, Twenty-Three Thousand Eight Hundred Dollars ($23,800) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the City shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010002001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall 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:

Manager, Water Section
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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

8. 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.

9. 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.

10. 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.

11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 10/10/2008
For the Executive Director Date

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

I understand that by entering into this Agreed Order, City of Burkburnett waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Carl Law 8-4-08
Signature Date

Carl Law Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Burkburnett

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: 2008-0689-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Burkburnett**
Payable Penalty Amount:	**Twenty-Three Thousand Eight Hundred Dollars ($23,800)**
SEP Amount:	**Twenty-Three Thousand Eight Hundred Dollars ($23,800)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up**
Location of SEP:	**Wichita 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 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, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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 must 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.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802

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:

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 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.

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 Respondent 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 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 an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.