

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1712-MWD-E    **TCEQ ID:** RN101610350    **CASE NO.:** 34721

**RESPONDENT NAME:** Village of Wimberley and Guadalupe Blanco River Authority

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Blue Hole Management, located approximately one mile northeast of the intersection of Ranch-to-Market Road 12 and Ranch-to-Market Road 3237, Hays County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 14, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondents:</b> Mr. W.E. West, Jr., General Manager, City of Wimberly, P.O. B ox 2027, Wimberley, Texas 78676  The Honorable Tom Haley, Mayor, Village of Wimberley, P. O. Box 2027, Wimberley, Texas 78676  Mr. Darel Ball, Division Manager, Guadalupe Blanco River Authority, 933 East Court Street, Seguin, Texas 78155  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 14, 2007</p> <p><b>Date of NOE Relating to this Case:</b> August 30, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to comply with its interim permitted effluent limits for biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TCEQ Permit No. WQ0013321001 Effluent Limitations and Monitoring Requirements A, and TEX. WATER CODE § 26.121(a)(1)].</p> <p>2) Failure to monitor for pH at the required frequency. Specifically, the Respondents failed to monitor and document pH during the months of September and October 2006, February, March, and June 2007 [30 TEX. ADMIN. CODE § 319.7(a)(4) and TCEQ Permit No. WQ0013321001 Monitoring and Reporting Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$8,000</p> <p><b>Total Deferred:</b> \$1,600  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$6,400</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondents have implemented the following corrective measures at the Facility:</p> <p>a) In December 2007, initiated studies to improve the existing Facility;</p> <p>b) In December 2007, initiated a Regional Study to determine the feasibility of constructing a Regional wastewater treatment facility to service the entire Wimberley area; and</p> <p>c) In February 2008, initiated engineering plans to construct a new Facility should the above referenced study indicate that compliance cannot be achieved even with improvements to the existing Facility.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondents to implement and complete a Supplemental Environmental Project (See SEP Attachment A).</p> <p>3) The Order will require the Respondents to:</p> <p>a) Immediately begin monitoring and documenting the results after analyzing effluent samples for pH;</p> <p>b) Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a;</p> <p>c) Within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TCEQ Permit No. WQ0013321001, 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</p>

		effluent limitations; and  d) The certification required by Ordering Provision Nos. 3.b and 3.c, shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.
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Additional ID No(s): TCEQ Permit No. 13321-001





Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	4-Sep-2007	<b>Screening</b>	1-Oct-2007	<b>EPA Due</b>	
	<b>PCW</b>	7-Nov-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Village of Wimberley and Guadalupe Blanco River Authority
<b>Reg. Ent. Ref. No.</b>	RN101610350
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34721	<b>No. of Violations</b>	2
<b>Docket No.</b>	2007-1712-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Pamela Campbell
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$8,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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**Notes** No change due to Average Performer classification.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondents do not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes** The Respondents do not meet the good faith criteria.

<b>Total EB Amounts</b>	\$5,957	0% Enhancement*	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$20,100	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$8,000

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,000
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	-\$1,600
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,400
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**Screening Date** 1-Oct-2007

**Docket No.** 2007-1712-MWD-E

**PCW**

**Respondent** Village of Wimberley and Guadalupe Blanco River Autho

Policy Revision 2 (September 2002)

**Case ID No.** 34721

PCW Revision September 19, 2007

**Reg. Ent. Reference No.** RN101610350

**Media [Statute]** Water Quality

**Enf. Coordinator** Pamela Campbell

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	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 submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

>> **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**

No change due to Average Performer classification.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b> 1-Oct-2007	<b>Docket No.</b> 2007-1712-MWD-E	<b>PCW</b>			
<b>Respondent</b> Village of Wimberley and Guadalupe Blanco River Authority	<i>Policy Revision 2 (September 2002)</i>				
<b>Case ID No.</b> 34721	<i>PCW Revision September 19, 2007</i>				
<b>Reg. Ent. Reference No.</b> RN101610350					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Pamela Campbell					
<b>Violation Number</b> <input type="text" value="1"/>					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), TCEQ Permit No. WQ0013321001 Effluent Limitations and Monitoring Requirements A, and Tex. Water Code § 26.121(a)(1)				
<b>Violation Description</b>	Failure to comply with its interim permitted effluent limits as shown in the attached table.				
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment as a result of this violation.				
<b>Adjustment</b>		<input type="text" value="\$9,000"/>			
<input type="text" value="\$1,000"/>					
<b>Violation Events</b>					
	<b>Number of Violation Events</b>	<input type="text" value="4"/>	<input type="text" value="364"/>	<b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>	monthly	<input type="text"/>	
	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="text"/>	
	annual	<input type="text"/>	single event	<input type="text"/>	
<b>Violation Base Penalty</b>		<input type="text" value="\$4,000"/>			
Four quarterly events are recommended.					
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
	<b>Estimated EB Amount</b>	<input type="text" value="\$5,949"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$4,000"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$4,000"/>		

## Economic Benefit Worksheet

**Respondent** Village of Wimberley and Guadalupe Blanco River Authority

**Case ID No.** 34721

**Reg. Ent. Reference No.** RN101610350

**Media** Water Quality

**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Description</b>	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
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-No commas or \$

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$20,000	1-Feb-2004	1-May-2008	4.2	\$283	\$5,666	\$5,949
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

This is the estimated cost to evaluate and eliminate the causes of the noncompliances at the Facility. The date required is the first noncompliance date and the final date is the anticipated date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$20,000

**TOTAL**

\$5,949

<b>Screening Date</b> 1-Oct-2007	<b>Docket No.</b> 2007-1712-MWD-E	<b>PCW</b>
<b>Respondent</b> Village of Wimberley and Guadalupe Blanco River Authority		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34721		<small>PCW Revision September 19, 2007</small>
<b>Reg. Ent. Reference No.</b> RN101610350		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Pamela Campbell		
<b>Violation Number</b> <input type="text" value="2"/>		
<b>Rule Cite(s)</b> 30 Tex. Admin. Code § 319.7(a)(4) and TCEQ Permit No. WQ0013321001 Monitoring and Reporting Requirements No. 1		
<b>Violation Description</b> Failed to monitor for pH at the required frequency. Specifically, the Respondents failed to monitor and document pH during the months of September and October 2006, February, March, and June 2007.		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	9/1/2006	<input type="text"/>	<input type="text"/>		<input type="text"/>
<b>Potential</b>	<input type="text"/>	x	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>	

>> Programmatic Matrix

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

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

**Adjustment**

Violation Events

**Number of Violation Events**  **Number of violation days**

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

**Violation Base Penalty**

Four quarterly events are recommended.

Economic Benefit (EB) for this violation Statutory Limit Test

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent:** Village of Wimberley and Guadalupe Blanco River Authority  
**Case ID No.:** 34721

**Reg. Ent. Reference No.:** RN101610350  
**Media:** Water Quality

**Violation No.:** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	1-Sep-2006	1-May-2008	1.7	\$8	n/a	\$8
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to conduct and document monthly pH samples. The date required is the first date that pH testing was required and the final date is the anticipated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

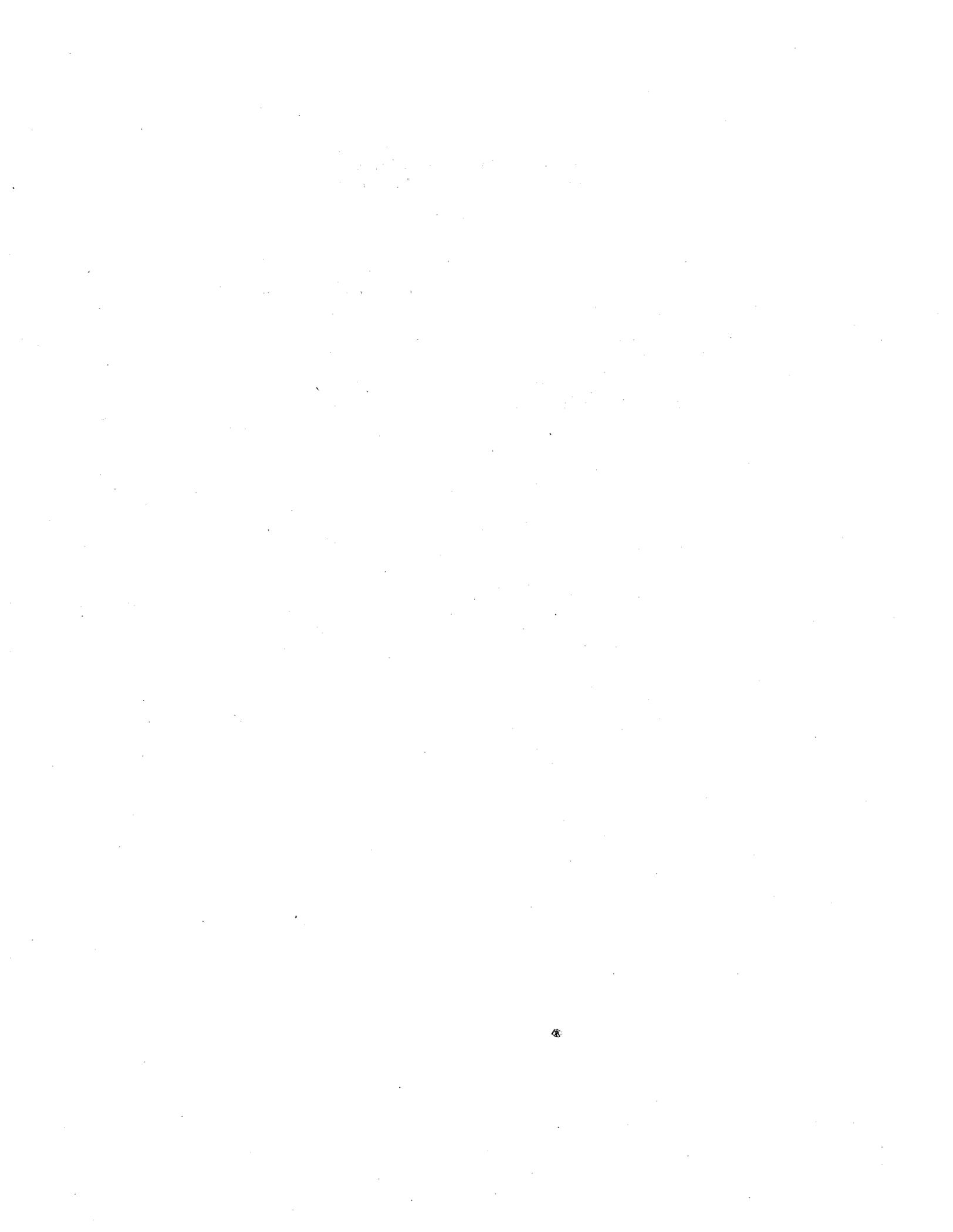
Approx. Cost of Compliance

\$100

**TOTAL** \$8

Village of Wimberley and Guadalupe Blanco River Authority  
TCEQ Permit No. WQ0013321001  
Docket No. 2007-1712-MWD-E

Date	Biochemical Oxygen Demand Single Grab 100 milligrams per liter
August 2006	123
October 2006	119
November 2006	102
January 2007	138
April 2007	120
June 2007	113
July 2007	117



## Compliance History

Customer/Respondent/Owner-Operator:	CN601180565	Guadalupe-Blanco River Authority	Classification: Average	Rating: 1.5
Regulated Entity:	RN101610350	BLUE HOLE MANAGEMENT	Classification: High	Site Rating: 0.0
ID Number(s):	WASTEWATER	PERMIT	WQ0013321001	
Location:	One mile northeast of the intersection of RM12 and RM 3237, Hays County		Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	October 01, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 01, 2002 to October 01, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Pamela Campbell	Phone:	512 239-4493	

### Site Compliance History Components

- |  |  |
|--|--|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes  |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | Yes  |
| 3. If Yes, who is the current owner?   | Village of Wimberly and Guadalupe Blanco River Authority |
| 4. If Yes, who was/were the prior owner(s)?  | Blue Hole Management, Ltd.                               |
| 5. When did the change(s) in ownership occur?  | 02/12/2004   |

### 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 08/30/2007 (512063) |
| E.                     | Written notices of violations (NOV). (CCEDS Inv. Track. No.)  |                       |
| 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                   |



## Compliance History

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

CN601642473 Village of Wimberly  
RN101610350 BLUE HOLE MANAGEMENT  
WASTEWATER PERMIT  
One mile northeast of  
the intersection of RR 12 and RR  
3237, Hays County

Classification: HIGH Rating: 0.00  
Classification: HIGH Site Rating: 0.00  
WQ0013321001  
September 01 07 Repeat Violator:  
NO

TCEQ Region:  
Date Compliance History Prepared:  
Agency Decision Requiring Compliance History:  
Compliance Period:  
TCEQ Staff Member to Contact for Additional Information  
Name: Pamela Campbell

REGION 11 - AUSTIN  
October 22, 2007  
Enforcement  
October 01, 2002 to October 01, 2007  
Regarding this Compliance History  
Phone: 512 239-4493

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Village of Wimberly and Guadalupe Blanco River Authority
4. If Yes, who was/were the prior owner(s)? Blue Hole Management, Ltd.
5. When did the change(s) in ownership occur? 2/12/2004

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 08/30/2007 (512063)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
ENFORCEMENT ACTION  
CONCERNING  
VILLAGE OF WIMBERLEY AND  
GUADALUPE BLANCO RIVER  
AUTHORITY  
RN101610350

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-1712-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 Village of Wimberley and Guadalupe Blanco River Authority ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents appear before the Commission and together stipulate that:

1. The Respondents own and operate a wastewater treatment facility located approximately one mile northeast of the intersection of Ranch-to-Market Road 12 and Ranch-to-Market Road 3237 in Hays County, Texas (the "Facility").
2. The Respondents have discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Dollars (\$8,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Six Hundred Dollars (\$1,600) is deferred contingent upon the Respondents' 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 Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents to pay all or part of the deferred penalty. Six Thousand



Four Hundred Dollars (\$6,400) shall be conditionally offset by the Respondents' completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondents have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondents have implemented the following corrective measures at the Facility:
  - a. In December 2007, initiated studies to improve the existing Facility;
  - b. In December 2007, initiated a Regional Study to determine the feasibility of constructing a Regional wastewater treatment facility to service the entire Wimberley area; and
  - c. In February 2008, initiated engineering plans to construct a new Facility should the above referenced study indicate that compliance cannot be achieved even with improvements to the existing Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owners and operators of the Facility, the Respondents are alleged to have:

1. Failed to comply with its interim permitted effluent limits as shown in the attached table, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TCEQ Permit No. WQ0013321001 Effluent Limitations and Monitoring Requirements A, and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on August 14, 2007.



Date	Biochemical Oxygen Demand Single Grab 100 milligrams per liter
August 2006	123
October 2006	119
November 2006	102
January 2007	138
April 2007	120
June 2007	113
July 2007	117

2. Failed to monitor for pH at the required frequency, in violation of 30 TEX. ADMIN. CODE § 319.7(a)(4) and TCEQ Permit No. WQ0013321001 Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on August 14, 2007. Specifically, the Respondents failed to monitor and document pH during the months of September and October 2006, February, March, and June 2007.

### III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' 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: Village of Wimberley and Guadalupe Blanco River Authority, Docket No. 2007-1712-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 Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The Respondents 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 Four Hundred Dollars (\$6,400) of the assessed administrative penalty shall be offset with the condition that the Respondents implement the SEP defined in Attachment A, incorporated herein by reference. The



Respondents' 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.

4. It is further ordered that the Respondents shall undertake the following technical requirements:
- a. Immediately begin monitoring and documenting the results after analyzing effluent samples for pH;
  - b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 4.a;
  - c. Within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TCEQ Permit No. WQ0013321001, 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; and
  - d. The certification required by Ordering Provision Nos. 4.b and 4.c, shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712



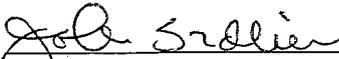
5. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
6. If the Respondents fail to comply with 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents 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.
9. 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.
10. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to The Respondents , or three days after the date on which the Commission mails notice of the Order to the Respondents , whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

Date 10/2/2008

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

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

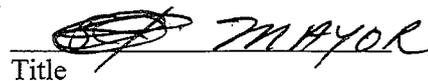
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement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

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

  
Signature

Date 5/5/08

TOM HARLEY  
Name (Printed or typed)  
Authorized Representative of  
Village of Wimberley

  
Title



Village of Wimberley and Guadalupe Blanco River Authority  
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**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission

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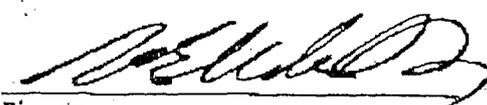
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- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

9/5/08  
\_\_\_\_\_  
Date

W.E. WEST JR.  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Guadalupe Blanco River Authority

BBW. MGR.  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order



Attachment A  
Docket Number: 2007-1712-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondents:** Village of Wimberley and Guadalupe-Blanco River Authority  
**Payable Penalty Amount:** Six Thousand Four Hundred Dollars (\$6,400)  
**SEP Amount:** Six Thousand Four Hundred Dollars (\$6,400)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up  
**Location of SEP:** Hays 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 Respondents 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 Respondents 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 clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. 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 Respondents certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.



C. Minimum Expenditure

The Respondents 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 Respondents must contribute the SEP Amount to the Third-Party Recipient. The Respondents 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 Respondents 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 Respondents 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 Respondents 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 Respondents 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 Respondents 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 Respondents shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondents 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 Respondents under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Attachment A  
Docket Number: 2007-1712-MWD-E

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