

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0983-MWD-E **TCEQ ID:** RN102314341 **CASE NO.:** 34041

**RESPONDENT NAME:** Texas Department of Criminal Justice

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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> TDCJ Clemens Unit Plant, located outside the northwest corner of the security compound of the Clemens Unit, approximately 0.5 mile north of the intersection of State Highway 36 and Farm-to-Market Road 2004, and approximately five miles southeast of the City of Brazoria, Brazoria County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</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 November 26, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Mr. John Shelton, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2563; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Frank Inmon, Director, Facilities Division, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342                      Mr. Charles R. Marsh, Chief Financial Officer, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342  <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 type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" 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> June 6, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 12, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Failed to comply with the permitted effluent limits for Dissolved Oxygen, Total Suspended Solids, Ammonia Nitrogen, Flow, and Carbonaceous Biochemical Oxygen Demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010878001, Effluent Limitations and Monitoring Requirement Nos. 1 and 6].</p>	<p><b>Total Assessed:</b> \$13,360</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$13,360</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" 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>Findings Orders Justification:</b>                      Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP).</p> <p>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 effluent limits of TPDES Permit No. WQ0010878001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TX0031569 and WQ0010878001

Attachment A

Docket Number: 2007-0983-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Texas Department of Criminal Justice

**Payable Penalty Amount:** Thirteen Thousand Three Hundred Sixty Dollars (\$13,360)

**SEP Amount:** Thirteen Thousand Three Hundred Sixty Dollars (\$13,360)

**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:** Brazoria 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 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 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 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 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 77802-2700

**3. Records and Reporting**

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

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.





Screening Date 29-Jun-2007

Docket No. 2007-0983-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 34041

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102314341

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

**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)	14	70%
	Other written NOVs	1	2%
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 judgments 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%
<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) 72%

>> 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

A 72% enhancement is recommended for having 14 months of self-reported effluent data violations and one NOV without a same or similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 72%

Screening Date 29-Jun-2007

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PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

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PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102314341

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a), TPDES Permit No. WQ0010878001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on June 6, 2007. See attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand ("CBOD"), ammonia nitrogen ("NH3"), and Flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total Suspended Solids ("TSS") was also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 31

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

One monthly event (for December 2006) is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$334

Violation Final Penalty Total \$8,350

This violation Final Assessed Penalty (adjusted for limits) \$8,350

## Economic Benefit Worksheet

**Respondent** Texas Department of Criminal Justice  
**Case ID No.** 34041  
**Reg. Ent. Reference No.** RN102314341  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Dec-2006	1-Apr-2008	1.3	\$334	n/a	\$334

Notes for DELAYED costs

See Economic Benefit for Violation No. 2.

### 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

\$5,000

TOTAL

\$334

Screening Date 29-Jun-2007

Docket No. 2007-0983-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 34041

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102314341

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a), TPDES Permit No. WQ0010878001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on June 6, 2007. See attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand ("CBOD"), ammonia nitrogen ("NH3"), and Flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total Suspended Solids ("TSS") was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

183 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events (for the months of July, August, and November 2006, and January and February 2007) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$438

Violation Final Penalty Total \$5,010

This violation Final Assessed Penalty (adjusted for limits) \$5,010

## Economic Benefit Worksheet

**Respondent** Texas Department of Criminal Justice  
**Case ID No.** 34041  
**Reg. Ent. Reference No.** RN102314341  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Jul-2006	1-Apr-2008	1.8	\$438	n/a	\$438

#### Notes for DELAYED costs

Estimated costs of evaluating the causes of the effluent noncompliances is \$5,000. Date required is the beginning of the effluent noncompliances and the final date is the projected 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

\$5,000

TOTAL

\$438

**Effluent Violation Table**  
Texas Department of Criminal Justice  
TPDES Permit No. WQ0010878001  
Docket No. 2007-0983-MWD-E

Monitoring Period End Date	Permitted Effluent Limits					
	07/31/2006	08/31/2006	11/30/2006	12/31/2006	01/31/2007	02/28/2007
<b>Dissolved Oxygen</b> Minimum 4.0 mg/l	2.0	c	c	c	c	c
<b>Total Suspended Solids</b> Daily Average Concentration 15 mg/l	c	c	c	56.85	44.51	26.95
<b>Total Suspended Solids</b> Daily Loading 68 lbs/day	c	c	c	136.06	123.7	c
<b>Total Suspended Solids</b> Daily Maximum 40 mg/l	c	c	c	124	100	43.20
<b>Ammonia Nitrogen</b> Daily Average Loading 14 lbs/day	c	c	c	38.75	29.87	21.27
<b>Ammonia Nitrogen</b> Daily Average Concentration 3 mg/l	c	c	c	16.19	10.46	9.07
<b>Ammonia Nitrogen</b> Daily Maximum 10 mg/l	c	c	10.8	23.70	19.8	19.1
<b>Flow</b> Daily Average .54 MGD	0.617	0.580	c	c	c	c
<b>CBOD</b> Daily Average Concentration 10 mg/l	c	c	c	62	27	13
<b>CBOD</b> Daily Average Loading 45 lbs/day	c	c	c	147.75	82.44	c
<b>CBOD</b> Daily Maximum 25 mg/l	c	c	c	80	69	51

mg/l = milligrams  
per liter

lbs/day = pounds per  
day

c = compliant

MGD = million  
gallons per day

CBOD =  
Carbonaceous  
Biochemical Oxygen  
Demand



# Compliance History

Customer/Respondent/Owner-Operator:	CN601550650	Texas Department of Criminal Justice	Classification: AVERAGE	Rating: 2.66
Regulated Entity:	RN102314341	TDCJ CLEMENS UNIT PLANT	Classification: AVERAGE Site Rating: 0.49	
ID Number(s):	WASTEWATER	PERMIT	WQ0010878001	
	WASTEWATER	PERMIT	TX0031569	
	WASTEWATER	EPA ID	TX0031569	
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0200203	
	WATER LICENSING	LICENSE	0200203	
	WASTEWATER LICENSING	LICENSE	WQ0010878001	
Location:	LOCATED OUTSIDE THE NORTHWEST CORNER OF THE SECURITY COMPOUND OF THE CLEMENS UNIT, APPROXIMATELY .5 MILE NORTH OF THE INTERSECTION OF STATE HIGHWAY 36 AND FARM-TO-MARKET ROAD 2004, AND APPROXIMATELY 5 MILES SOUTHEAST OF THE CITY OF BRAZORIA IN BRAZORIA COUNTY, TEXAS			Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	June 19, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 19, 2002 to June 19, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Deana Holland	Phone:	239-2504	

## 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  | 07/05/2002 | (177707) |
| 2  | 07/30/2002 | (177710) |
| 3  | 08/28/2002 | (177713) |
| 4  | 10/01/2002 | (177716) |
| 5  | 01/02/2003 | (355425) |
| 6  | 03/10/2003 | (177730) |
| 7  | 05/28/2003 | (303626) |
| 8  | 05/29/2003 | (303624) |
| 9  | 05/29/2003 | (303627) |
| 10 | 05/29/2003 | (303628) |
| 11 | 06/26/2003 | (177719) |
| 12 | 06/26/2003 | (177723) |
| 13 | 09/08/2003 | (355420) |
| 14 | 09/25/2003 | (355418) |
| 15 | 10/07/2003 | (355422) |

16	11/20/2003	(355423)
17	12/11/2003	(355424)
18	01/26/2004	(355426)
19	03/02/2004	(355427)
20	03/25/2004	(303625)
21	07/15/2004	(355414)
22	08/11/2004	(355415)
23	08/19/2004	(355416)
24	08/21/2004	(355417)
25	08/25/2004	(355421)
26	10/21/2004	(355419)
27	11/09/2004	(339862)
28	11/22/2004	(341601)
29	04/07/2005	(421589)
30	04/07/2005	(421590)
31	04/07/2005	(421591)
32	04/07/2005	(421592)
33	05/12/2005	(421586)
34	05/12/2005	(421593)
35	05/12/2005	(421594)
36	05/31/2005	(421585)
37	06/10/2005	(421587)
38	06/16/2005	(421588)
39	08/29/2005	(442563)
40	09/30/2005	(442562)
41	10/10/2005	(471690)
42	10/31/2005	(471691)
43	11/04/2005	(471692)
44	12/01/2005	(471693)
45	01/06/2006	(471694)
46	01/18/2006	(450649)
47	03/14/2006	(471689)
48	04/19/2006	(500252)
49	05/18/2006	(500253)
50	06/12/2006	(500254)
51	08/11/2006	(522347)
52	08/16/2006	(522348)
53	08/28/2006	(522349)
54	10/20/2006	(547035)
55	11/06/2006	(547036)
56	12/01/2006	(547037)
57	12/29/2006	(547038)
58	06/12/2007	(563341)

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

Date:	12/31/2002	(177730)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2003	(303624)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2003	(303627)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2003	(355423)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			

Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2003	(355424)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/17/2004	(341601)	
Self Report?	NO		Classification Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
	30 TAC Chapter 317 317.3[G]		
Description:	Failure to maintain on-site lift station.		
Self Report?	NO		Classification Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
	30 TAC Chapter 317 317.4(g)(4)(B)[G]		
Description:	Failure to maintain the oxidation ditch rotor(s).		
Date:	07/31/2005	(442563)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2005	(471691)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2005	(471694)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006	(522349)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2006	(547035)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2006	(547038)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2006		
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2007		
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2007		
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE  
RN102314341

§  
§  
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§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER  
DOCKET NO. 2007-0983-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 Texas Department of Criminal Justice (“TDCJ”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and TDCJ presented this agreement to the Commission.

TDCJ 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, TDCJ 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 TDCJ.

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

**I. FINDINGS OF FACT**

1. TDCJ owns and operates a wastewater treatment plant located outside the northwest corner of the security compound of the Clemens Unit, approximately 0.5 mile north of the intersection of State Highway 36 and Farm-to-Market Road 2004, and approximately five miles southeast of the City of Brazoria in Brazoria County, Texas (the “Facility”).



2. TDCJ has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on June 6, 2007, TCEQ staff documented that TDCJ had not maintained compliance with permitted effluent limits, as listed below:

Effluent Violation Table						
Monitoring Period End Date	Permitted Effluent Limits					
	07/31/2006	08/31/2006	11/30/2006	12/31/2006	01/31/2007	02/28/2007
<b>Dissolved Oxygen</b> Minimum 4.0 mg/l	2.0	c	c	c	c	c
<b>Total Suspended Solids</b> Daily Average Concentration 15 mg/l	c	c	c	56.85	44.51	26.95
<b>Total Suspended Solids</b> Daily Loading 68 lbs/day	c	c	c	136.06	123.7	c
<b>Total Suspended Solids</b> Daily Maximum 40 mg/l	c	c	c	124	100	43.20
<b>Ammonia Nitrogen</b> Daily Average Loading 14 lbs/day	c	c	c	38.75	29.87	21.27
<b>Ammonia Nitrogen</b> Daily Average Concentration 3 mg/l	c	c	c	16.19	10.46	9.07
<b>Ammonia Nitrogen</b> Daily Maximum 10 mg/l	c	c	10.8	23.70	19.8	19.1
<b>Flow</b> Daily Average .54 MGD	0.617	0.580	c	c	c	c
<b>CBOD</b> Daily Average Concentration 10 mg/l	c	c	c	62	27	13
<b>CBOD</b> Daily Average Loading 45 lbs/day	c	c	c	147.75	82.44	c
<b>CBOD</b> Daily Maximum 25 mg/l	c	c	c	80	69	51

mg/l = milligrams per liter	lbs/day = pounds per day	c = compliant	MGD = million gallons per day	CBOD = Carbonaceous Biochemical Oxygen Demand
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4. TDCJ received notice of the violations on June 17, 2007.



## II. CONCLUSIONS OF LAW

1. TDCJ 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, TDCJ failed to comply with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010878001, Effluent Limitations and Monitoring Requirement Nos. 1 and 6.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against TDCJ 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.
4. An administrative penalty in the amount of Thirteen Thousand Three Hundred Sixty Dollars (\$13,360) 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. Thirteen Thousand Three Hundred Sixty Dollars (\$13,360) shall be conditionally offset by TDCJ's completing of a Supplemental Environmental Project ("SEP").

## III. ORDERING PROVISIONS

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

1. TDCJ is assessed an administrative penalty in the amount of Thirteen Thousand Three Hundred Sixty Dollars (\$13,360) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and TDCJ'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: Texas Department of Criminal Justice, Docket No. 2007-0983-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. TDCJ shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Thirteen Thousand Three Hundred Sixty Dollars (\$13,360) of the assessed administrative penalty shall be offset with the condition that TDCJ implement the SEP defined in Attachment A, incorporated herein by reference. TDCJ's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completing of all provisions of the SEP agreement.



3. It is further ordered that TDCJ shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010878001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon TDCJ. TDCJ 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 TDCJ 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, TDCJ's failure to comply is not a violation of this Agreed Order. TDCJ shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. TDCJ shall notify the Executive Director within seven days after TDCJ 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 TDCJ shall be made in writing to the Executive Director. Extensions are not effective until TDCJ 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 TDCJ if the Executive Director determines that TDCJ 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 TDCJ 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

John Sredlin  
For the Executive Director

12/11/2007  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Texas Department of Criminal Justice. I am authorized to agree to the attached Agreed Order on behalf of Texas Department of Criminal Justice, 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, Texas Department of Criminal Justice 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.

Charles R. Marsh  
Signature

9/21/07  
Date

CHARLES R. MARSH  
Name (Printed or typed)  
Authorized Representative of  
Texas Department of Criminal Justice

CHIEF FINANCIAL OFFICER  
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.

Handwritten text at the top of the page, possibly a header or introductory paragraph, which is mostly illegible due to fading.

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Handwritten signature or name on the right side of the lower section.

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Attachment A  
Docket Number: 2007-0983-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

<b>Respondent:</b>	<b>Texas Department of Criminal Justice</b>
<b>Payable Penalty Amount:</b>	<b>Thirteen Thousand Three Hundred Sixty Dollars (\$13,360)</b>
<b>SEP Amount:</b>	<b>Thirteen Thousand Three Hundred Sixty Dollars (\$13,360)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")-Abandoned Tire Clean-Up</b>
<b>Location of SEP:</b>	<b>Brazoria County</b>

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 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 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 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 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 77802-2700

**3. Records and Reporting**

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

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.

