

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2006-1392-MWD-E TCEQ ID: RN RN101918936 CASE NO.: 30882
RESPONDENT NAME: CITY OF DE KALB

ORDER TYPE:		
<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	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Approximately 1.5 miles due south of the intersection of U.S. Highway 82 and Farm-to-Market Road 992, De Kalb, Bowie County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, R-12, (713) 422-8914 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p>SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223</p> <p>TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Water Enforcement Section, MC R-12, (713) 767-3672</p> <p>TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174</p> <p>Respondent: The Honorable Paul Meadows, Mayor, City of De Kalb, 110 East Grizzley Street, De Kalb, Texas 75559</p> <p>Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: N/A</p> <p>Dates of Investigation Relating to this Case: August 8, 2006</p> <p>Date of NOE Relating to this Case: August 18, 2006</p> <p>Background Facts: The EDPRP was filed on January 31, 2007. On October 1, 2007, Litigation mailed a proposed Agreed Order to the Respondent. On October 5, 2007, Litigation received a signed Agreed Order from the Respondent.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MWD</p> <p>1. Failed to comply with the permitted effluent limits for January 2006, March 2006 and April 2006 [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit WQ0010062002, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a)].</p> <p>2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2005 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010062002, Sludge Provisions].</p>	<p>Total Assessed: \$9,675</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$9,675</p> <p>Total Paid to General Revenue: \$0</p> <p>The administrative penalty amount of \$9,675 shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 1, 2002</p> <p>Findings Order Justification:</p> <p>This is a findings order because the Respondent had two previous orders of the same violations and one written Notice of Violation with the same violation.</p>	<p>Corrective Action Taken:</p> <p>The Executive Director recognizes that on September 1, 2006, the Respondent began submitting the required annual sludge reports for the Facility.</p> <p>Ordering Provision:</p> <p>The Respondent shall implement and complete a Supplemental Environmental Project (SEP), as defined in Attachment A. The Respondent's obligation to pay the conditionally offset administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement (Attachment A).</p> <p>Technical Requirement:</p> <p>Within 60 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010062002.</p>

Attachment A
Docket Number: 2006-1392-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of DeKalb
Penalty Amount: Nine Thousand Six Hundred Seventy-Five Dollars (\$9,675)
SEP Offset Amount: Nine Thousand Six Hundred Seventy-Five Dollars (\$9,675)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Bowie County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. **Project Description**

A. Project

The Respondent shall repair or replace failing or inadequately designed private sewer lines, access units, and clean-outs for approximately six low-income residences in Bowie County. The Respondent shall use SEP monies for the direct costs to replace old vitrified clay and Orangeburg pipes that are no longer functioning properly. The failure of these existing lines has resulted in overflows of untreated sewage to the environment, causing unsanitary conditions and environmental concerns.

The Respondent shall perform this project 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 preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.

- Direct contact in areas of public access such as in lawns or streets, or in waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. The Respondent shall use SEP monies pay for the associated labor and materials costs, according to TCEQ expenditure restrictions on the use of SEP funds. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Subject to previously stated restrictions on the use of SEP monies and to the extent it can be documented, the Respondent shall receive credit only for the hours its employees and equipment are used after hours or on weekends for implementing the SEP. The Respondent shall not receive credit for volunteer labor or equipment. The Respondent shall also not receive credit for gratuities and/or inducements for volunteers.

2. **Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of this SEP. The Respondent shall complete the project within one year after the effective date of this Order.

3. **Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number and location of residences receiving line replacements;
5. Map showing specific location of residences;

6. Before and after photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

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

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment 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.

6. 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.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the “Clean Texas” (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. 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 orders negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	22-Aug-2006	Screening	23-Aug-2006	EPA Due	
	PCW	23-Aug-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of De Kalb
Reg. Ent. Ref. No.	RN101918936
Facility/Site Region	5-Tyler
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	30882	No. of Violations	3
Docket No.	2006-1392-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Brent Hurta
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$4,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 115% Enhancement Subtotals 2, 3, & 7 \$5,175

Notes: Enhancement due to 12 self-reported effluent violations, three prior NOV's with same or similar violations, and two Agreed Orders.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: Respondent did not meet culpability criteria.

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

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

Notes: Respondent did not meet good faith criteria.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$1,418	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,000	

SUM OF SUBTOTALS 1-7 Final Subtotal \$9,675

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

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

Notes:

Final Penalty Amount \$9,675

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$9,675

DEFERRAL 0% Reduction Adjustment \$0

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

Notes: No deferral offered for findings orders.

PAYABLE PENALTY \$9,675

Screening Date 23-Aug-2006

Docket No. 2006-1392-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 2 (September 2002)

Case ID No. 30882

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Brent Hurta

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>)	15	75%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	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) 115%

>> **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 Enhancement due to 12 self-reported effluent violations, three prior NOV's with same or similar violations, and two Agreed Orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 115%

Screening Date 23-Aug-2006 **Docket No.** 2006-1392-MWD-E **PCW**
Respondent City of De Kalb *Policy Revision 2 (September 2002)*
Case ID No. 30882 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101918936
Media [Statute] Water Quality
Enf. Coordinator Brent Hurta
Violation Number
Primary Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)
Secondary Rule Cite(s)
Violation Description Failure to comply with the permitted effluent limits as shown in the attached violation table, as documented during the August 8, 2006 record review.
Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual		X		Percent <input type="text" value="25%"/>
	Potential				

>> **Programmatic Matrix**

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

Matrix Notes

A simplified model was utilized to evaluate the values for five day carbonaceous biochemical oxygen demand and ammonia-nitrogen to determine whether the discharged amounts of the pollutants exceeded the levels protective of human health or environmental receptors. Total suspended solids were also considered. Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty

One monthly event is recommended for the month April 2006.

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 City of De Kalb
 Case ID No. 30882
 Reg. Ent. Reference No. RN101918936
 Media [Statute] Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	01-Jan-2006	23-Apr-2007	1.3	\$22	\$436	\$457
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 for additional oversight and sampling which could have reduced or alleviated the exceedances. The date required is the date the noncompliances started and the final date is the expected compliance date.

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

TOTAL

Screening Date 23-Aug-2006

Docket No. 2006-1392-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 2 (September 2002)

Case ID No. 30882

PCW Revision, May 19, 2005

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Brent Hurta

Violation Number

30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and Tex. Water Code § 26.121(a)

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to comply with the permitted effluent limits as shown in the attached violation table, as documented during the August 8, 2006 record review.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

A simplified model was utilized to evaluate the values for five day carbonaceous biochemical oxygen demand and ammonia-nitrogen to determine whether the discharged amounts of the pollutants exceeded the levels protective of human health or environmental receptors. Total suspended solids and total chlorine residual were also considered. 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 as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	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"/>

Violation Base Penalty

One quarterly event is recommended for the months of January and March 2006.

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 City of De Kalb
 Case ID No. 30882
 Reg. Ent. Reference No. RN101918936
 Media [Statute] Water Quality
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs See Violation 1

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 See Violation 1

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 23-Aug-2006 **Docket No.** 2006-1392-MWD-E **PCW**
Respondent City of De Kalb *Policy Revision 2 (September 2002)*
Case ID No. 30882 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101918936
Media [Statute] Water Quality
Enf. Coordinator Brent Hurta
Violation Number

Primary Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010062002, Sludge Provisions
Secondary Rule Cite(s)
Violation Description Failure to submit the annual sludge report for the monitoring period ending July 31, 2005 by September 1, 2005, as documented during the August 8, 2006 record review.

Base Penalty

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

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 City of De Kalb
 Case ID No. 30882
 Reg. Ent. Reference No. RN101918936
 Media [Statute] Water Quality
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item	Cost	Start Date	End Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$1,000	01-Sep-2004	01-Aug-2005	0.9	\$46	\$915	\$961
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

The avoided cost includes the estimated amount required to submit the DMRs for the annual sludge report to the Enforcement Division, calculated from the date of non-compliance to the required submittal date.

Approx. Cost of Compliance **\$1,000**

TOTAL \$961

Effluent Limit Violation Table

Respondent	City of De Kalb
ID Number(s)	TPDES Permit No. WQ0010062002 Enforcement Case No. 30882
Docket No.	2006-1392-MWD-E
Enf. Coordinator	Brent Hurta

EFFLUENT PARAMETER Permit Limit

<i>Month/Year</i>	TSS Daily Average Concentration	NH3 Daily Average Loading	NH3 Daily Average Concentration	NH3 Single Grab Concentration	Cl Residual Maximum Concentration	Cl Residual Minimum Concentration	CBOD Daily Average Concentration
	15 mg/L	8.8 lbs/day	3 mg/L	15 mg/L	4.0 mg/L	1.0 mg/L	10mg/L
January 2006	c	c	c	c	5.1	0.0	c
March 2006	18	16.9	7.9	15.1	c	c	11.6
April 2006	28.5	25.2	17.4	20.1	c	c	12.9

Term	Abbreviation
total residual chlorine	Cl
milligrams per liter	mg/L
pounds per day	lbs/day
total suspended solids	TSS
total ammonia nitrogen (as N)	NH3
carbonaceous biological oxygen demand	CBOD
compliant	c

Compliance History

Customer/Respondent/Owner-Operator: CN601365414 City of De Kalb Classification: AVERAGE Rating: 2.73
Regulated Entity: RN101918936 CITY OF DEKALB SOUTH WWTP Classification: AVERAGE Site Rating: 2.45
ID Number(s): WASTEWATER PERMIT WQ0010062002
WASTEWATER PERMIT TPDES0069671
WASTEWATER LICENSING LICENSE WQ0010062002
Location: LOCATED S OF DE KALB, APPROX. 1.5 M DUE S OF THE INTERSECTION OF US HWY 82 AND FM 992, BOWIE COUNTY Rating Date: September 01 05 Repeat Violator: NO
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: August 22, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 22, 2001 to August 22, 2006
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Brent Hurta Phone: 512-239-6589

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 10/20/2001 ADMINORDER 2000-1246-MWD-E
Classification: Moderate

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

Rqmt Prov: 2a & 2b PERMIT
Description: Failure to meet permitted limits.

Effective Date: 02/10/2005 ADMINORDER 2003-0333-MWD-E
Classification: Moderate

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

Rqmt Prov: Effluent Limits and Mon. Reqs. 1 PERMIT
Description: Failure to comply with the permit limit for TSS at Outfall 001A.

- 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 09/26/2002 (196050)
- 2 09/19/2001 (196049)
- 3 09/04/2002 (196047)
- 4 08/23/2001 (196046)
- 5 07/22/2002 (196044)
- 6 06/07/2004 (311460)
- 7 06/20/2003 (196041)
- 8 05/25/2004 (311461)
- 9 06/27/2002 (196040)
- 10 10/16/2002 (311462)
- 11 06/21/2004 (311464)
- 12 02/22/2005 (385444)
- 13 05/04/2004 (271194)
- 14 10/16/2002 (311465)
- 15 03/24/2005 (385445)
- 16 11/29/2004 (385446)
- 17 05/21/2003 (196037)

18 04/25/2005 (423478)
 19 12/21/2004 (385447)
 20 06/04/2002 (196036)
 21 08/25/2003 (311468)
 22 05/20/2005 (423479)
 23 01/20/2005 (385448)
 24 01/16/2002 (247238)
 25 06/20/2005 (423480)
 26 09/22/2003 (311470)
 27 05/01/2003 (196033)
 28 11/04/2003 (311472)
 29 11/20/2003 (311473)
 30 04/22/2002 (196032)
 31 12/22/2003 (311474)
 32 02/27/2006 (474778)
 33 01/28/2004 (311475)
 34 11/28/2005 (474779)
 35 03/20/2003 (196028)
 36 12/20/2005 (474780)
 37 03/15/2002 (196027)
 38 02/26/2003 (196025)
 39 07/08/2002 (196024)
 40 07/30/2004 (358615)
 41 01/23/2006 (474781)
 42 08/26/2004 (358616)
 43 09/22/2004 (358617)
 44 10/29/2004 (358618)
 45 07/27/2005 (444285)
 46 08/23/2005 (444286)
 47 09/26/2005 (444287)
 48 10/21/2005 (444288)
 49 08/18/2006 (497126)
 50 04/04/2002 (IE0008296004001)
 51 06/27/2002 (247241)
 52 02/03/2003 (196065)
 53 01/28/2002 (283306)
 54 02/06/2002 (196064)
 55 12/27/2002 (196061)
 56 02/17/2006 (449655)
 57 12/27/2001 (196060)
 58 01/06/2003 (196057)
 59 11/26/2001 (196056)
 60 03/27/2006 (502485)
 61 04/24/2006 (502486)
 62 11/01/2002 (196053)
 63 02/23/2004 (311455)
 64 05/22/2006 (502487)
 65 10/24/2001 (196052)
 66 03/23/2004 (311457)
 67 06/21/2006 (502488)
 68 04/26/2004 (311458)

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

Date: 07/31/2002 (196047)
 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: 05/31/2006 (502488)
 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: 01/16/2002 (247238)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
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Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 03/31/2002 (196032)
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: 02/28/2003 (196028)
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: 01/31/2006 (474778)
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: 02/28/2002 (196027)
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: 02/28/2006 (449655)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain the chlorine residual within the permitted effluent limits.

Date: 06/27/2002 (247241)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/31/2001 (196064)
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: 11/30/2001 (196060)
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: 09/30/2001 (196052)
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: 03/31/2006 (502486)
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: 04/30/2006 (502487)
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: 08/31/2002 (196050)
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
CITY OF DE KALB,
RN101918936

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-1392-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of De Kalb ("The City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation 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 Agreed Order represents the complete and fully-integrated agreement 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:

FINDINGS OF FACT

1. The City owns and operates a wastewater treatment facility located south of De Kalb, approximately 1.5 miles due south of the intersection of U.S. Highway 82 and Farm-to-Market Road 992 in Bowie County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.

3. During a record review conducted on August 8, 2006, TCEQ staff documented that the City violated the following requirements:
 - a. Failed to comply with the permitted effluent limits as shown in the table below.

<i>Month/Year</i>	TSS Daily Average Concentration	NH3 Daily Average Loading	NH3 Daily Average Concentration	NH3 Single Grab Concentration	Cl Residual Maximum Concentration	Cl Residual Minimum Concentration	CBOD Daily Average Concentration
	15 mg/L	8.8 lbs/day	3 mg/L	15 mg/L	4.0 mg/L	1.0 mg/L	10mg/L
January 2006	c	c	c	c	5.1	0.0	c
March 2006	18	16.9	7.9	15.1	c	c	11.6
April 2006	28.5	25.2	17.4	20.1	c	c	12.9

Term	Abbreviation
total residual chlorine	Cl
milligrams per liter	mg/L
pounds per day	lbs/day
total suspended solids	TSS
total ammonia nitrogen (as N)	NH3
carbonaceous biological oxygen demand	CBOD
compliant	c

- b. Failed to submit the annual sludge report for the monitoring period ending July 31, 2005.
4. The City received notice of the violations on August 21, 2006.
5. The Executive Director recognizes that on September 1, 2006, the City began submitting the required annual sludge reports for the Facility.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, the City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and ch. 26, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3.a., the City has failed to comply with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0010062002, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a).
3. As evidenced by Finding of Fact No. 3.b., the City has failed to submit the annual sludge report for the monitoring period ending July 31, 2005, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010062002, Sludge Provisions.
4. 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.
5. An administrative penalty in the amount of nine thousand six hundred seventy-five dollars (\$9,675) 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. Nine thousand six hundred seventy-five dollars (\$9,675) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of nine thousand six hundred seventy-five dollars (\$9,675) as set forth in Conclusion of Law No. 5 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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of De Kalb; Docket No. 2006-1392-MWD-E; Enforcement ID No. 30882" 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 Supplemental Environmental Project in accordance with TEX. WATER CODE § 7.067. Nine thousand six hundred seventy-five dollars (\$9,675) of the assessed administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project defined in "Attachment A". The City's obligation to pay the conditionally offset administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City 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. WQ0010062002. 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 City shall submit all correspondence, reports, and documentation required by the Ordering Provision to:

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

and shall send a copy of the documentation to:

Noel Luper, Manager, Water Section Manager
Tyler Regional Office MC R-5
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this 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 has 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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Roberton Perdue

For the Executive Director

12/2/07

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of De Kalb. I represent that I am authorized to agree to the attached Agreed Order on behalf of City of De Kalb, 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 De Kalb 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

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

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

[Signature]
Signature

Oct. 5, 2007

Date

Paul G. Marshall (Mayor)
Name (printed or typed)

MAYOR

Title

Authorized Representative

City of De Kalb

Attachment A

Docket Number: 2006-1392-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of DeKalb
Penalty Amount:	Nine Thousand Six Hundred Seventy-Five Dollars (\$9,675)
SEP Offset Amount:	Nine Thousand Six Hundred Seventy-Five Dollars (\$9,675)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Bowie County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall repair or replace failing or inadequately designed private sewer lines, access units, and clean-outs for approximately six low-income residences in Bowie County. The Respondent shall use SEP monies for the direct costs to replace old vitrified clay and Orangeburg pipes that are no longer functioning properly. The failure of these existing lines has resulted in overflows of untreated sewage to the environment, causing unsanitary conditions and environmental concerns.

The Respondent shall perform this project 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 preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.

- Direct contact in areas of public access such as in lawns or streets, or in waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. The Respondent shall use SEP monies pay for the associated labor and materials costs, according to TCEQ expenditure restrictions on the use of SEP funds. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Subject to previously stated restrictions on the use of SEP monies and to the extent it can be documented, the Respondent shall receive credit only for the hours its employees and equipment are used after hours or on weekends for implementing the SEP. The Respondent shall not receive credit for volunteer labor or equipment. The Respondent shall also not receive credit for gratuities and/or inducements for volunteers.

2. **Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of this SEP. The Respondent shall complete the project within one year after the effective date of this Order.

3. **Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number and location of residences receiving line replacements;
5. Map showing specific location of residences;

6. Before and after photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

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

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment 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.

6. 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.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. 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 orders negotiated with the TCEQ or any other agency of the state or federal government.