

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1934-MWD-E TCEQ ID: RN101720530 CASE NO.: 31636
RESPONDENT NAME: CITY OF MURCHISON

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
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 2,800 feet northeast of the intersection of Farm-to-Market Road 773 and County Road 1616, adjacent to County Road 1616 at the northeast edge of the City of Murchison, Henderson 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.</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: TCEQ Attorney: Ms. Mary E. Coleman, Litigation Division, MC 175, (817) 588-5917 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-4490 TCEQ Enforcement Coordinator: Ms. Audra Ruble, Water Enforcement Section, MC R-14, (361) 825- 3126 TCEQ Regional Contact: Ms. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5100 Respondent: The Honorable Larry Everett, Mayor of the City of Murchison, P. O. Box 33, Murchison, Texas 75778 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: None</p> <p>Dates of Investigation Relating to this Case: October 23, 2006</p> <p>Date of NOE Relating to this Case: November 3, 2006</p> <p>Background Facts:</p> <p>An EDPRP was filed on May 29, 2007. The Respondent signed an agreed order on November 6, 2007.</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 permitted effluent limits at Outfall 001 for pH, BOD₅, and TSS [TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. 13972001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p> <p>2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2005 by September 1, 2005 [30 TEX. ADMIN. CODE § 305.125(17); and TCEQ Permit No. 13972001, Sludge Provisions].</p>	<p>Total Assessed: \$7,000</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$7,000</p> <p>Total Due to General Revenue: \$7,000</p> <p>The amount of \$7,000 of the administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification: Average</p> <p>Person Compliance History Classification: Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent:</p> <ol style="list-style-type: none"> Returned to compliance with the permitted effluent limitations contained in TPDES Permit No. 13972001 during October 2006. Submitted the annual sludge report for the monitoring period ending July 31, 2005 on December 5, 2006. <p>Ordering Provisions:</p> <p>The Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

Attachment A
Docket Number: 2006-1934-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Murchison

Penalty Amount: Seven thousand dollars (\$7,000)

SEP Amount: Seven thousand dollars (\$7,000)

Type of SEP: Pre-approved

Third-Party Recipient: *Keep Texas Beautiful - Stop Trashing Texas* and *Texas Waterways Cleanup Programs*

Location of SEP: Henderson County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, *Keep Texas Beautiful* shall use the SEP funds to promote the cleanup of unauthorized trash dumps and waterways cleanups by supplying project coordination, labor, supplies, and materials, for clean up events, by providing assistance with disposal fees for proper disposal of wastes collected at the events, and by performing activities that promote pollution reduction and pollution prevention, such as illegal dumping enforcement training for law enforcement officers and judges, and public education directly related to prevention or cleanup of illegal dumping in Henderson County. SEP funds used for this purpose shall be limited to the actual direct costs for the specific purpose necessary to meet the requirements of the SEP and no portion of the SEP funds will be spent on administrative costs related to perform the SEP.

Trash dump cleanups shall be coordinated with waste collection facilities and/or local governments to employ heavy machinery for the removal of large waste items. To the maximum extent possible, cleanups shall be accomplished with the use of volunteers from community groups, private companies, schools, and youth organizations.

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 removing unauthorized trash dumps and providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid communities of hazardous contaminants that may leach into the soil and water. Waterway cleanups help reduce the impact of solid waste on our water environment by the following: improving water quality of lakes, rivers, and creeks; reducing flooding caused by the blockage of drainage outlets; reducing potential threats to the wildlife, of which thousands die each year due to ingestion or entanglement; decreasing damage to fishing and recreational boats; and reducing injury to swimmers and bathers.

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:

Keep Texas Beautiful
Attention: Anne Cunic, Affiliate Services Manager
1524 South IH-35, Suite 150
Austin, Texas 78704
P.O. Box 2251
Austin, Texas 78768

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:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality

City of Murchison
Agreed Order – Attachment A

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. In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due with the notation "SEP Refund" and the docket number of the case, and shall send it to "Texas Commission on Environmental Quality" at:

Texas Commission on Environmental Quality
Office of Legal Services
Attention: SEP Coordinator, MC 175
P.O. Box 13088
Austin, Texas 78711-3088

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



Penalty Calculation Worksheet (PCW)

DATES	Assigned	06-Nov-2006	Screening	06-Nov-2006	EPA Due	
	PCW	19-Jan-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Murchison
Reg. Ent. Ref. No.	RN101720530
Facility/Site Region	5-Tyler
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	31636	No. of Violations	2
Docket No.	2006-1934-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Laurie Eaves
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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Reduction Subtotal 5

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

Notes

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$93"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,450"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Reduction Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 06-Nov-2006

Docket No. 2006-1934-MWD-E

PCW

Respondent City of Murchison

Policy Revision 2 (September 2002)

Case ID No. 31636

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101720530

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

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>)	18	90%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (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 (<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%
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%

Please Enter Yes or No

Adjustment Percentage (Subtotal 2) 90%

>> Repeat Violator (Subtotal 3)

No <

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History *Person Classification* (Subtotal 7)

Average Performer <

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes The Respondent self-reported 17 months of effluent quality violations and was issued one NOV for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 90%

Screening Date 06-Nov-2006

Docket No. 2006-1934-MWD-E

PCW

Respondent City of Murchison

Policy Revision 2 (September 2002)

Case ID No. 31636

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101720530

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 1

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. 13972001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to comply with permitted effluent limitations as detailed in the attached effluent violation chart, as documented during a record review conducted on October 23, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

A simplified model was utilized to evaluate the values for Ammonia Nitrogen, Biochemical Oxygen Demand, and Flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total Suspended Solids and pH were also evaluated. The amounts discharged at the time of the violations were insignificant amounts of pollutants which did not exceed protective levels.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 3

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$77

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent City of Murchison
 Case ID No. 31636
 Reg. Ent. Reference No. RN101720530
 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)	\$1,200	01-Nov-2005	01-Oct-2006	0.9	\$4	\$73	\$77
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 might have prevented or alleviated the violations. Date Required is the initial month of noncompliance. Final Date is the date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$1,200

TOTAL \$77

Screening Date 06-Nov-2006

Docket No. 2006-1934-MWD-E

PCW

Respondent City of Murchison

Policy Revision 2 (September 2002)

Case ID No. 31636

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101720530

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 2

Primary Rule Cite(s)

30 Tex. Admin. Code § 305.125(17), and TPDES Permit No.13972001, Sludge Provisions

Secondary Rule Cite(s)

Violation Description

Failure to submit the annual sludge report for the monitoring period ending July 31, 2005, as documented during a record review conducted on October 23, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes 100% of the requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$1,750

This violation Final Assessed Penalty (adjusted for limits) \$1,750

Economic Benefit Worksheet

Respondent City of Murchison
 Case ID No. 31636
 Reg. Ent. Reference No. RN101720530
 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	\$250	01-Sep-2005	05-Dec-2006	1.3	\$16	n/a	\$16
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 associated with annual sludge sampling/reporting. Date Required is the date the reporting requirement started. Final Date is the date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$250
TOTAL \$16

City of Murchison
RN101720530

Effluent Violation Chart

Month	pH Minimum Limit = 6.0 standard units	BOD ₅ Daily Average Concentration Limit = 20 mg/L	TSS Daily Average Loading Limit = 13 lbs/day	TSS Daily Average Concentration Limit = 20 mg/L	TSS Single Grab Limit = 65 mg/L liter
11/2005	4.7	c	c	c	c
12/2005	c	c	19.1	92.6	396
01/2006	c	c	13.7	40.6	75
02/2006	c	21.8	28.5	74.2	110
03/2006	c	26.5	29.3	76.3	130
04/2006	c	31.9	19.6	59.8	76
05/2006	c	c	c	22.4	c
06/2006	c	20.3	c	c	c

BOD₅ = five-day biochemical oxygen demand
s.u. = standard units
lbs/day = pounds per day

TSS = total suspended solids
mg/L = milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator: CN600698187 CITY OF MURCHISON Classification: AVERAGE Rating: 0.84
Regulated Entity: RN101720530 CITY OF MURCHISON WWTP Classification: AVERAGE Site Rating: 0.84
ID Number(s): WASTEWATER PERMIT WQ0013972001
WASTEWATER PERMIT TPDES0072087
WASTEWATER PERMIT TX0072087
Location: Approximately 2,800 feet northeast of the intersection of Farm-to-Market Road 773 and County Road 1616, adjacent to County Road 1616 at the northeast edge of the City of Murchison, Henderson County

Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: November 06, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 06, 2001 to November 06, 2006

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

Name: Laurie Eaves Phone: 512/239-4495

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 11/18/2004 (385724)
- 2 12/20/2004 (385725)
- 3 06/18/2003 (312415)
- 4 01/21/2005 (385726)
- 5 07/18/2003 (312416)
- 6 08/20/2003 (312417)
- 7 09/17/2003 (312418)
- 8 10/27/2003 (312419)
- 9 11/19/2003 (312420)
- 10 12/19/2003 (312421)
- 11 07/06/2004 (275291)
- 12 01/22/2004 (312422)
- 13 11/03/2006 (517081)
- 14 04/19/2006 (502699)
- 15 01/24/2003 (198345)
- 16 05/18/2006 (502700)
- 17 01/22/2002 (198344)
- 18 06/22/2006 (502701)
- 19 05/17/2004 (359050)
- 20 12/19/2002 (198341)
- 21 06/21/2004 (359051)

22 12/27/2001 (198340)
23 07/22/2004 (359052)
24 08/19/2004 (359053)
25 11/21/2002 (198338)
26 09/21/2004 (359054)
27 11/26/2001 (198337)
28 10/18/2004 (359055)
29 10/23/2002 (198335)
30 04/22/2005 (423684)
31 05/18/2005 (423685)
32 06/23/2005 (423686)
33 09/23/2002 (198332)
34 07/13/2006 (486543)
35 07/23/2002 (198329)
36 07/15/2002 (198326)
37 06/26/2002 (198323)
38 05/20/2002 (198320)
39 07/21/2005 (444481)
40 08/17/2005 (444482)
41 09/20/2005 (444483)
42 04/22/2003 (198317)
43 04/17/2002 (198316)
44 03/21/2003 (198312)
45 03/25/2002 (198311)
46 07/26/2006 (488860)
47 02/19/2002 (198309)
48 02/21/2006 (475137)
49 03/22/2006 (475138)
50 10/20/2005 (475139)
51 11/21/2005 (475140)
52 12/27/2005 (475141)
53 01/17/2006 (475142)
54 02/18/2003 (312410)
55 06/06/2005 (394524)
56 02/20/2004 (312411)
57 03/19/2004 (312412)
58 02/21/2005 (385722)
59 04/19/2004 (312413)
60 03/18/2005 (385723)
61 05/21/2003 (312414)

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

Date: 04/30/2003 (312414)
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: 06/30/2003 (312416)
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 (502699)
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 (502700)
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 (502701)
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 (198332)
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: 05/31/2005 (423686)
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: 07/31/2002 (198329)
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: 06/30/2002 (198326)
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 (198317)
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 (198311)
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: 01/31/2002 (198309)
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 (475137)
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 (475138)
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 (475141)
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: 12/31/2005 (475142)
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: 06/30/2006
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: 08/03/2006 (488860)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)[G]
Description: Failure to properly maintain the clarifier. The clarifier skimmer rake gearbox was observed to be inoperable.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.5(e)(1)[G]
Description: Failure to maintain the sludge drying beds. The sludge drying beds were found to be in poor condition.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to prevent the discharge of sludge solids into the receiving water. An excess amount of sewage sludge was noted in the receiving water and gas bubbles and nitrification were noted which is an indication of an anaerobic environment.

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 MURCHISON,
TCEQ ID NO. RN101720530

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-1934-MWD-E

I. JURISDICTION AND STIPULATIONS

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 Murchison ("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, appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately 2,800 feet northeast of the intersection of Farm-to-Market Road 773 and County Road 1616, adjacent to County Road 1616 at the northeast edge of the City of Murchison, Henderson County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 8, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of seven thousand dollars (\$7,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Seven

thousand dollars (\$7,000.00) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City:
 - a. returned to compliance with the permitted effluent limitations contained in TPDES Permit No. 13972001 during October 2006 and
 - b. submitted the annual sludge report for the monitoring period ending July 31, 2005 on December 5, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

The City is alleged to have violated the following requirements, as documented during a record review conducted on October 23, 2006:

1. 30 TEX. ADMIN. CODE § 305.125(1); Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13972001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3; and TEX. WATER CODE § 26.121(a) by failing to comply with permitted effluent limitations for Outfall 001 as detailed in the effluent chart below:

Month	pH Minimum Limit = 6.0 s.u.	BOD ₅ Daily Average Concentration Limit = 20 mg/L	TSS Daily Average Loading Limit = 13 lbs/day	TSS Daily Average Concentration Limit = 20 mg/L	TSS Single Grab Limit = 65 mg/L
11/2005	4.7	c	c	c	c
12/2005	c	c	19.1	92.6	396
01/2006	c	c	13.7	40.6	75
02/2006	c	21.8	28.5	74.2	110
03/2006	c	26.5	29.3	76.3	130
04/2006	c	31.9	19.6	59.8	76
05/2006	c	c	c	22.4	c
06/2006	c	20.3	c	c	c

c denotes compliance

BOD₅ = five-day biochemical oxygen demand

s.u. = standard units

lbs/day = pounds per day

TSS = total suspended solids

mg/L = milligrams per liter

2. 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 13972001, Sludge Provisions by failing to submit the annual sludge report for the monitoring period ending July 31, 2005 by the September 1, 2005 deadline.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here.
2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067 and as set forth in Section I, Paragraph 6, above. Seven thousand dollars (\$7,000.00) of the assessed administrative penalty shall be offset with the condition that the City implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated

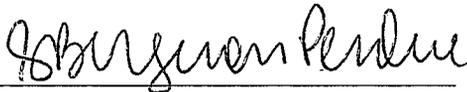
herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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.
6. 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/2/07

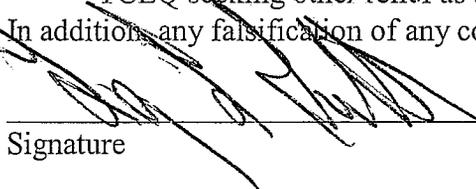
Date

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

I also understand that 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

10-23-07

Date

LARRY EVERETT

Name (Printed or typed)
Authorized representative of
City of Murchison

MAYOR

Title

Attachment A

Docket Number: 2006-1934-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Murchison
Penalty Amount:	Seven thousand dollars (\$7,000)
SEP Amount:	Seven thousand dollars (\$7,000)
Type of SEP:	Pre-approved
Third-Party Recipient:	<i>Keep Texas Beautiful - Stop Trashing Texas and Texas Waterways Cleanup Programs</i>
Location of SEP:	Henderson County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, *Keep Texas Beautiful* shall use the SEP funds to promote the cleanup of unauthorized trash dumps and waterways cleanups by supplying project coordination, labor, supplies, and materials, for clean up events, by providing assistance with disposal fees for proper disposal of wastes collected at the events, and by performing activities that promote pollution reduction and pollution prevention, such as illegal dumping enforcement training for law enforcement officers and judges, and public education directly related to prevention or cleanup of illegal dumping in Henderson County. SEP funds used for this purpose shall be limited to the actual direct costs for the specific purpose necessary to meet the requirements of the SEP and no portion of the SEP funds will be spent on administrative costs related to perform the SEP.

Trash dump cleanups shall be coordinated with waste collection facilities and/or local governments to employ heavy machinery for the removal of large waste items. To the maximum extent possible, cleanups shall be accomplished with the use of volunteers from community groups, private companies, schools, and youth organizations.

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 removing unauthorized trash dumps and providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid communities of hazardous contaminants that may leach into the soil and water. Waterway cleanups help reduce the impact of solid waste on our water environment by the following: improving water quality of lakes, rivers, and creeks; reducing flooding caused by the blockage of drainage outlets; reducing potential threats to the wildlife, of which thousands die each year due to ingestion or entanglement; decreasing damage to fishing and recreational boats; and reducing injury to swimmers and bathers.

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:

Keep Texas Beautiful
Attention: Anne Cunic, Affiliate Services Manager
1524 South IH-35, Suite 150
Austin, Texas 78704
P.O. Box 2251
Austin, Texas 78768

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:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality

City of Murchison
Agreed Order - Attachment A

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. In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due with the notation "SEP Refund" and the docket number of the case, and shall send it to "Texas Commission on Environmental Quality" at:

Texas Commission on Environmental Quality
Office of Legal Services
Attention: SEP Coordinator, MC 175
P.O. Box 13088
Austin, Texas 78711-3088

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